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**SC Court of Appeals**

**THE STATE OF SOUTH CAROLINA  
In the Court of Appeals**

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**APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas  
Haigh Porter, Master-in-Equity**

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**Civil Action No: 2018-CP-21-02191  
Appellate Case No: 2021-001185**

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**Ronald Edwin Barfield.....Plaintiff,**

**v.**

**The Corner Store, Inc., and all persons claiming any right, title, interest in or lien upon the real estate described; any unknown adults and those persons who may be in the military service of the United States of America, all of them being a class designated as John Doe, Whose true name is unknown; any unborn infants or Persons under disability being a class designated as Richard Roe, whose true name is unknown, United States of America, and Paige Holsapple as Florence County Delinquent Tax Collector.....Defendants,**

**Of Whom Ronald Edwin Barfield, The Corner Store, Inc., and all persons claiming any right, title, estate, interest in or lien upon the real estate described; any unknown adults and those persons who may be in the military service of the United States of America, all of them being a class designated as John Doe, who true name is unknown; any unborn infants or person under disability being a class designated as Richard Roe, whose true name is unknown, United States of America, and Paige Holsapple as Florence County Delinquent Tax Collector .....Respondents,**

**And**

**Nilesh Patel, as Trustee of the Anjay R. Patel Irrevocable Trust Agreement Dated December 18, 2000..... Appellant.**

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**FINAL BRIEF OF RESPONDENT PAIGE HOLSAPPLE  
AS FLORENCE COUNTY DELINQUENT TAX COLLECTOR**

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## STATEMENT OF ISSUES ON APPEAL

- I. The Master-in-Equity was correct in finding that the Federal Forfeiture of the subject property did not prevent the Tax Sale.
  
- II. The Federal Government's release of the subject property from the forfeiture years after the Tax Sale did not void the Tax Sale.
  
- III. The Master-in-Equity correctly found the Tax Sale was valid.
  
- IV. That Master-in-Equity was correct in applying the Statute of Limitations in *S.C. Code Ann.* §12-51-160.

## STATEMENT OF THE CASE

This case was filed on August 14, 2018 as an action to quiet title. An Answer was filed by the Florence County Delinquent Tax Collector admitting to the propriety of the Tax Sale which is the subject of the quiet title action. The United States of America filed an action contesting the Tax Sale as it had an Order of Forfeiture of the Taxpayer's property. A Consent Order of Reference transferring the case to the Florence County Master's office was filed on February 9, 2019. A Petition for appointment of a *Guardian ad Litem* was filed and an Order Appointing *Guardian ad Litem* was filed on March 11, 2019 to represent any unknown individuals who may claim an interest in the property subject to the Tax Sale.

A Motion was filed on May 3, 2019 by Nilesh Patel, as Trustee of the Anjay R. Patel Irrevocable Trust Agreement to be added as a party. By Order dated June 11, 2019, the Patel Trust was added as a party. On July 16, 2021, the Patel Trust filed an Answer and Cross-Claim. As the time for responsive pleadings from the Florence County Delinquent Tax Collector had not expired, the parties agreed to bi-furcate the trial to proceed on the Plaintiff's Complaint only.

The defaulting taxpayer is The Corner Store, Inc. The Corner Store, Inc. did not pay the 2015 ad valorem property taxes on real estate. An execution against the real property of The Corner Store, Inc. identified on the Florence County Tax Assessor's records as TMS# 90013-03-001 was performed. The date of the execution was March 28, 2016. (R. p. 128). The Delinquent Tax Notice was sent to The Corner Store, Inc. at 1252 Overbrook Drive, Suite 7B, Gaffney, South Carolina 29341 on April 12, 2016. (R. p. 129). A certified Delinquent Tax Notice was mailed to The Corner Store, Inc. on May 20, 2016 at 1252 Overbrook Drive, Suite 7B, Gaffney, South Carolina 29341. (R. p. 57, lines 14 – 17 and R. p. 129). The certified Delinquent Tax Notice was claimed by Nathan Ramsey. (R. p. 130).

The property was advertised for sale in *The News and Journal* on September 14, 21, 28, 2016. (R. p. 58, lines 14 - 18). The real property was sold on October 3, 2016 for Fifteen Thousand Two Hundred Eighty-one and No/100 (\$15,281.00) Dollars. (R. pp. 134-137).

A certified, restricted delivery, redemption notice was sent to The Corner Store, Inc. on September 6, 2017 at 1252 Overbrook Drive, Suite 7B, Gaffney, South Carolina 29341. This notice was unclaimed. (R. p. 79, lines 4 - 17). The Redemption Notice was also sent to Nathan Ramsey at 192 Lois Drive, Gaffney, South Carolina 29341, which was claimed by Jane Ramsey. (R. p. 80, line 6 – p. 81 line 7). The Redemption Notice was also sent to Nathan Ramsey at 161 Easy Street, Murrell’s Inlet, South Carolina 29576, which was unclaimed. (R. p. 79, line 18 – p. 80 line 10). A Tax Deed was issued to Ronald Edwin Barfield, Jr. on May 9, 2018. (See R. pp. 134 - 137).

## **STANDARD OF REVIEW**

This case involves an action to remove a cloud on and quiet title to land. Such an action is one in equity. *Bryan v. Freeman*, 253 S.C. 50, 52, 168 S.E.2d 793 (1969). In actions at equity, tried before a Judge alone, the Appellate Court is free to find the facts according to its own view of the preponderance of the evidence. *Townes Assocs. Ltd. v. City of Greenville*, 266 S.C. 81, 86, 221 S.E.2d 773, 775 (1976). The decision to grant a Declaratory Judgment is within the sound discretion of the Trial Court and will not be disturbed absence an abuse of discretion. *Eargle v. Horry County*, 344 S.C. 449, 453, 545 S.E.2d 276, 179 (2001).

## ARGUMENT

I. The Master-in-Equity was correct in finding that the Federal Forfeiture of the subject property did not prevent the Tax Sale.

The United States of America objected to the Tax Sale of the subject property because it had filed an indictment against Anjay Patel forfeiting his property and property of The Corner Store, Inc. The United States withdrew its objection to the Tax Sale. The United States of America relied on 21 U.S.C. §853(k)(2) to object to the Tax Sale. This Code Section provides that in the event of a criminal forfeiture of property, no party claiming an interest in the property may commence an action alleging an interest in the property. Anjay Patel was prosecuted in Federal Court and was convicted. In the indictment of Anjay Patel, there was a forfeiture of various properties of his including property known as The Corner Store, Inc.

In *United States v. Phillips*, 185 F.3<sup>rd</sup> 183, 188 (4<sup>th</sup> Cir. 1999), the Court confirmed that once a forfeiture proceeding has been initiated, which could be by indictment, no other party can take any action concerning the property. Initially the United States of America challenged the Tax Sale based on 21 U.S.C. §853. The United States of America had a superior position to the Florence County Delinquent Tax Collector once a criminal forfeiture commences. However, this position is particular to the United States of America and to no other person or entity. As the United States of America has withdrawn its claim to The Corner Store, Inc.'s property under the criminal forfeiture proceedings, the legitimacy of the Tax Sale cannot be challenged under 21 U.S.C. §853 by any other party. The Corner Store, Inc. is not the ersatz for the United States of America in the delinquent tax sale. The United States of America participated in the quiet title action because of its superior position to the Florence County Delinquent Tax Collector's office

under 21 U.S.C. §853. The question of the superiority of the United States of America's claim to The Corner Store property became moot when it withdrew its forfeiture claim.

II. The Federal Government's release of the subject property from the forfeiture years after the Tax Sale did not void the Tax Sale.

*S.C. Code Ann.* §12-51-40(a) requires the Florence County Delinquent Tax Collector to mail a Notice of Delinquent Property Taxes, penalties, assessments, and costs to the defaulting taxpayer and to a grantee of record of the property.

If the taxes remain unpaid thirty (30) days from the date of mailing the Delinquent Tax Notice, the Florence County Delinquent Tax Collector takes exclusive possession of the property by mailing a Notice of Delinquent Property Taxes, assessments, penalties and costs to the defaulting taxpayer and any grantee of record of the property. This Notice is to be sent to the address shown on the tax receipt by certified mail, return receipt requested – restricted delivery. If the taxes remain unpaid the property must be advertised for sale at public auction in a newspaper of general circulation within Florence County. *S.C. Code Ann.* §12-51-40(d).

If the property taxes continue to remain unpaid the Florence County Delinquent Tax Collector is authorized to sell the property after it is duly advertised. *S.C. Code Ann.* §12-51-50.

After the tax sale, the defaulting taxpayer, any grantee from the owner or any mortgage or judgment creditor may, within twelve (12) months from the date of the sale, redeem the property. *S. C. Code Ann.* §12-51-90.

If the defaulting taxpayer does not redeem the property, under *S.C. Code Ann.* §12-51-120, neither more than forty-five (45) days nor less than twenty (20) days before the end of the redemption period, the Florence County Delinquent Tax Collector shall mail a notice by certified

mail, return receipt requested – restricted delivery to the defaulting tax payer and to the grantee, mortgagee or lessee of the property of record of the right to redemption.

The United States of America was not the owner, grantee, mortgagee, or judgment creditor of the subject property.

Again, if the United States of America withdrew its challenge to the Tax Sale, this right to challenge is unique to the United States of America only. It is not transferrable to The Corner Store, Inc. The Corner Store, Inc.'s right to challenge the Tax Sale is solely based on the Florence County Delinquent Tax Collector's failure to follow the property tax collection statutory scheme as it applies to The Corner Store, Inc. As explained herein, the Florence County Delinquent Tax Collector complied with Chapter 15 of Title 12.

III. The Master-in-Equity correctly found the Tax Sale was valid.

Upon failure to pay ad valorem taxes, a Tax Execution is issued against a defaulting taxpayer. If the taxes remain unpaid for thirty (30) days a Notice of Delinquent Taxes is mailed to the owner of record. The Notice advises the defaulting taxpayer that if the taxes, penalties, assessments and costs are not paid, the property will be advertised and sold to satisfy the Delinquent taxes. If the taxes remain unpaid another thirty (30) days, the Execution Officer takes exclusive possession of so much of the property as is necessary to satisfy the payment of taxes, penalties, assessments, and costs. Exclusive possession is taken by mailing a Notice of Delinquent Taxes, assessments, penalties, and costs to the defaulting taxpayer. S. C. Code Ann. §12-51-40.

After a Delinquent Tax Sale is held and the successful bidder pays the bid amount, he is furnished a receipt but does not obtain a Deed. S. C. Code Ann. §12-51-60. The defaulting

taxpayer, any grantee from the owner, or any mortgage or judgment creditor may redeem the real estate by paying the delinquent taxes within twelve (12) months of the date of the Delinquent Tax Sale. *S.C. Code Ann.* §12-51-90.

An additional notice of the tax sale must be given to the owner of record between forty-five (45) and twenty (20) days prior to the end of the redemption period. *S.C. Code Ann.* §12-51-120.

Paige Holsapple, the Delinquent Tax Collector for Florence County, testified that taxes on the subject property were not paid for the year 2019 and an Execution letter was sent on March 28, 2016 (R. p. 54, line 7 – p. 55, line 11 and R. p. 128). A Delinquent Tax Notice was sent on April 12, 2016 registered mail, restricted delivery to The Corner Store, Inc. at 1252 Overbrook Drive, Suite 7B, Gaffney, South Carolina 29341. (R. p. 55, line 25 – p. 56, line 5). The Delinquent Notice was signed for by Nathan Ramsey. (R. p. 57, lines 10 - 23 and R. p. 130). The property was advertised for sale in *The News Journal* on September 14, 21, and 28 of 2016. (R. p. 58, lines 14 - 18). The property was then sold at the Tax Sale on October 3, 2016. (R. p. 58, lines 19 - 25).

The Delinquent Tax Collector for Florence County sent the Notice of Redemption to The Corner Store, Inc. at 1252 Overbrook Drive, Suite 7B, Gaffney, South Carolina 29341. It was sent registered mail, restricted delivery. (R. p. 59, line 15 – p. 60, line 7 and R. p. 131). She also sent a notice to Nathan Ramsey at 161 Easy Street, Murrell's Inlet, South Carolina 29576 and one to Nathan Ramsey, 192 Lois Drive, Gaffney, South Carolina 29341. (R. p. 131 and R. p. 132). Ms. Holsapple testified that she knew Nathan Ramsey was the Registered Agent for The Corner Store, Inc. and that she did an internet search to locate any address for him as well. (R. p. 27, line 15 – p. 60, line 7).

Under *S.C. Code Ann.* §12-51-120 the fact that the certified mail for the redemption letter was returned undelivered is not grounds for a tax title to be withheld or to be found defective. The Delinquent Tax Collector for Florence County mailed the Redemption Notice to the last known address of The Corner Store, Inc. and to the address for The Corner Store, Inc. that was shown on the Treasurer's records.

The Appellant argues that the Florence County Delinquent Tax Collector did not comply with *S. C. Code Ann.* §12-51-40(b). This code section provides "all delinquent notices shall specify that if the taxes, assessments, penalties, and costs are not paid before a subsequent sales date...". The sales date of the subject property was October 3, 2016. (R. p. 58 lines 19 - 22). The Appellant's reliance on *Hawkins v. Bruno Yacht Sales*, 353 S.C. 31, 577 S.E.2d 202 (2003) is misplaced. The notice that the taxes must be paid before October 3, 2016 was not an arbitrary date or date other than the sales date. October 3, 2016 was the sales date. The wording in the Notice of Levy complied with Chapter 51 Title 12 of the South Carolina Code.

The Appellant contends that it was error for the Florence County Delinquent Tax Collector to send the Redemption Notice to Nathan Ramsey. The Florence County Delinquent Tax Collector complied with *S. C. Code Ann.* §12-51-150 by sending the Redemption Notice to The Corner Store, Inc. (R. p. 59 line 8 – p. 60 line 7 and R. pp. 131 - 133). The sending of the redemption letter to The Corner Store, Inc. satisfied the requirements of *S. C. Code Ann.* §12-51-150. That fact that the Florence County Delinquent Tax Collector sent additional notices is not required by the statute but was an effort to notify the taxpayer of its redemption right which is not a violation of the statute. These additional notices were not required by the Code. It was a gratuitous effort by the Florence County Delinquent Tax Collector to notify the owner of the property.

The Appellant argues that it was improper to send the Redemption Notice to the Registered Agent of The Corner Store, Inc. The Appellant contends that The Corner Store, Inc. should have been served rather than its Registered Agent. *S. C. Code Ann.* §15-9-210(a) and *S.C. Rules of Court* 4(d)(8) provide that the method for giving notice or service to a corporation is through its Registered Agent.

The claim of the Patel Trust that it was not properly notified as required under Chapter 51, Title 12 of the South Carolina Code fails. *S. C. Code Ann.* §12-51-140 requires notices be sent to the defaulting taxpayer and to a grantee of record of the property. The Florence County Delinquent Tax Collector complied with this provision by mailing its notice to The Corner Store, Inc. The Patel Trust does not qualify as the defaulting taxpayer as the property was not title in its name, but also does not qualify as a grantee of record of the property as set forth in *S. C. Code Ann.* §12-51-40(a). The Third Edition of Black's Law Dictionary defines a "grantee" as the person to whom a grant is made. Black's Law Dictionary defines "grant" "a technical term made use of in deeds of conveyance of lands to import a transfer". Black's Law Dictionary defines an "assignment" as "a transfer or making over to another of the whole of any property, real or personal, in possession or in action, all of any estate or right there in". An assignment of rents does not transfer title. It is derivative of a property interest in a mortgage. Absent a recorded mortgage, or other evidence of debt, the assignment fails as a property interest. A naked assignment of rents does not give right to possession of real property. Likewise, the notice required under *S. C. Code Ann.* §12-51-120 requires that it be sent to the defaulting taxpayer, to a grantee, a mortgagee or lessee. The Patel Trust does not qualify under an assignee of rents to receive notice of the right of redemption.

IV. That Master-in-Equity was correct in applying the Statute of Limitations in S.C. Code Ann. §12-51-160.

The South Carolina Code provides that a tax sale is evidence of good title and that no action for the recovery of land may be maintained unless brought within two (2) years from the date of sale. *S.C. Code Ann. §12-51-160*. The Tax Sale of the subject real property was on October 3, 2016. The Patel Trust did not file its Motion to Intervene until October 23, 2019 and did not file its Answer and Cross-Claim until July 16, 2021. Clearly the Appellant did not timely file. Any intervention to set aside the Tax Sale is required by statute to be maintained on or before October 3, 2018. §12-51-60 created a time limit during which one who lost title to property through a Tax Sale, after proper notice, may attempt to regain title.

The proper procedure for notifying a taxpayer of delinquent taxes before conducting a Tax Sale is outlined in *S. C. Code Ann. §12-51-40*. *S. C. Code Ann. §12-51-120* sets forth the notice requirements of Right of Redemption as set forth earlier in this brief, the Florence County Delinquent Tax Collector complied with Chapter 51 of Title 12. The Florence County Delinquent Tax Collector agrees that tax sales must be conducted in strict compliance with Chapter 51 of Title 12 of the South Carolina Code. *In Re: Ryan Inv. Co., Inc. vs. Richland County*, 335 S.C. 392, 395, 517 S.E.2d 692, 693 (1999) as the Florence County Delinquent Tax Collector complied with Chapter 51 of Title 12 of the South Carolina Code, hence the statute of limitations as set forth in *S. C. Code Ann. §12-51-160* bars the Appellant's claim.

**CONCLUSION**

For the reasons expressed in this Brief the Order of the Master-in-Equity should be affirmed.

Respectfully submitted,

**s/ D. Malloy McEachin, Jr.**  
**D. Malloy McEachin, Jr.**  
**D. Malloy McEachin, Jr., P.A.**  
**180 N. Irby Street, MSC-XX**  
**Florence, South Carolina 29501**  
**Phone: (843) 665-0135**  
**Fax: (843) 665-0716**  
**[malloy@mceachinlawfirm.com](mailto:malloy@mceachinlawfirm.com)**  
**SC Bar No: 3794**  
**Attorney for Respondent, Paige Holsapple**  
**as Florence County Delinquent Tax Collector**

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CERTIFICATE OF COUNSEL

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The undersigned certifies that this Final Brief complies with Rule 211(b), SCACR.

September 22, 2022

s/ D. Malloy McEachin, Jr.

D. Malloy McEachin, Jr.

**D. MALLOY MCEACHIN, JR., P.A.**

180 N. Irby St. MSC-XX

Florence, South Carolina 29501

(843) 665-0135 (Office)

(843) 665-0716 (Facsimile)

[malloy@mceachinlawfirm.com](mailto:malloy@mceachinlawfirm.com)

SC Bar No.: 3794

Attorney for Respondent, Paige Holsapple  
as Florence County Delinquent Tax Collector