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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

Haigh M. Porter, Master-in-Equity

Appellate Case No. 2021-001185
Case No. 2018-CP-21-02191

Ronald Edwin Barfield, Plaintiff,

v.

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, 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,
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 Respondents,

And

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

FINAL REPLY BRIEF OF APPELLANT TO RESPONDENT'S FLORENCE COUNTY AND
RESPONDENT BARFIELD'S INITIAL BRIEF

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**IN REPLY TO RESPONDENT BARFIELD’S AND RESPONDENT FLORENCE
COUNTY’S ARGUMENTS**

The Respondent Barfield states in his brief that “The Court was clear that the Patel Trust was allowed to present its argument on behalf of the United States of America just for information purposes and the legitimacy of this claim would be considered at the Court’s discretion (Transcript p. 36). Both Respondents objected to the relevance of the Appellant’s questioning Ms. Holsapple (on behalf of Florence County) regarding its communications with the United States government and the forfeiture of the subject property. (R. p. 32, line 18 – p. 36, line 6). The Court allowed the Patel Trust to present its argument after the objections were made and that the Court indicated it would “...sort it out. This is a court of equity and I’ll sort it out.” (R. p. 36. Lines 9-11). The Court did not make any ruling or any further statement regarding the claim made by the Patel Trust on behalf of the United States of America. The Court did not address the objections in its order issued on September 17, 2021. (R. pp. 36-40).

The Respondent Barfield also states in his brief that the Court properly established that this action is to quiet title, not an action for the Appellant to recover the subject property. The final Order issued by the Master-in-Equity indicated that the matter was bifurcated and this ruling is only as to the quiet title action. (R. pp. 36-40). However, the Patel Trust filed an Answer, Counterclaim, and Crossclaim asserting that the tax sale was defective and should be declared void and the tax deed to the Property set aside. (R. pp. 30-35). At the onset of the hearing, the parties agreed to bifurcate the Crossclaim filed by the Patel Trust against Florence County (R. p. 10, lines 3-15). There was not an agreement to bifurcate any other matter.

The Respondents Florence County and Barfield argue that forfeiture protections are specific to the United States of America and no one else can use those same protections. The Patel Trust had been paying the taxes on the subject property prior to the tax sale and seizure of the property. It stopped paying the taxes after the property was seized by the United States government. Mr. Patel testified that he was instructed by Ms. Adams of the US Marshal's office to stop paying the taxes. (R. p. 9, lines 9-17). The Patel Trust relied upon the knowledge that the property was under forfeiture and that the interest of the United States government was supreme to all others, meaning that no one else could take any action regarding the property. This also means that Florence County should not have sold the subject property at the tax sale. The Respondents wrongly argue that the validity of the tax sale is now moot since the United States has settled the forfeiture case regarding Mr. Patel. Florence County should not have sold the subject property until after the forfeiture had been released by the federal government. The settlement of the forfeiture case does not render the tax sale of the subject property a legal and/or valid sale.

Respondent Florence County asserts is complied with S.C. Code Ann. §12-51-40(b), which cover the providing notices of the delinquent taxes and the deadlines regarding payments. The Notice of Levy issued by Florence County specified that the taxes, assessments, penalties and interest must be paid before October 3, 2022. The notice does not state anything regarding payment on the date of the tax sale, only prior to the sale. (R. p. 39, lines 6-10). Further, Ms. Holsapple for Florence County, testified that the payments for delinquent taxes would not be accepted the day of the sale and had to be made prior to October 3, 2016. (Transcript p.39). Florence County is in violation of the statute based upon the wording of the Notice of Levy and is further evidenced by the testimony provided, their actions violate the tax sale statutes by not

accepting payments on the date of the tax sale. In Hawkins v. Bruno Yacht Sales, 353 SC 31, 577 SE2d 202 (2003), one of the issues raised was that of artificial deadlines created by the notices leading up to the tax sales. The Court acknowledged it understood the reasons behind the deadlines set by the County, but "... the statute does not provide that the County set a date, *other than the sales date*, after which the taxpayer can no longer pay his delinquent taxes ..." Id. at 38, 206, (emphasis added). For these reasons, the deadline established by the Respondent Florence County does not comply with the tax sale statutes and should render the tax sale void.

CONCLUSION

For the reason as set forth in the Appellant's final brief and in this final reply brief, the Appellant respectfully requests that this Court reverse the ruling of the Master-in-Equity and issue an Order:

- (1) declaring that the tax sale was defective as the Property was sold while the Property was under federal forfeiture;
- (2) declaring that the tax deed is void as it was issued while the Property was under federal forfeiture;
- (3) declaring that Florence County did not strictly comply with the tax sale statutes regarding the October 3, 2016 tax sale of the Property the tax sale is therefore void and the subsequent tax deed is set aside; and
- (4) declaring the tax sale was not conducted in strict compliance with the tax sale statutes, which constitute a jurisdictional defect and the statute of limitations in S.C. Code Ann. §12-51-160 does not apply.

Respectfully Submitted,

/s/ Jennifer Dowd Nichols

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October 3, 2022

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Certificate of Counsel

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

October 20, 2022

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