

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

Ossama A. Rahman,)
)
)
Plaintiff,)
)
)
Joy Cottle and Treasurer for Richland)
County,)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
C/A No.:2021-CP-40-00455

**ORDER FINDING FOR THE
DEFENDANTS**

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SC Court of Appeals

STATEMENT OF THE CASE

Plaintiff seeks to set aside the Tax Sale for TMS#25812-01-01 (the "Property"), held on November 5, 2018, for a technical irregularity in the mailing of the end of redemption notice required by S.C. Code Ann. §12-51-160. Defendant Joy Cottle was the successful bidder on the Property. Defendant Treasurer of Richland County admits that the redemption notice was sent by certified mail, return receipt requested, but that the certified mailing failed to note "restricted delivery" as required by S.C. Code Ann. §12-51-160. The Property was not redeemed. Defendant Cottle was issued a Tax Deed by Defendant Treasurer of Richland County on March 12, 2020. Plaintiff filed this action to recover possession on February 2, 2021.

ISSUE BEFORE THE COURT

I. DOES THE TWO YEAR STATUTE OF LIMITATIONS PROVIDED IN S.C. CODE ANN. §§12-51-160 AND 12-51-90 BAR PLAINTIFF'S ACTION FOR RECOVERY?

DISCUSSION

A. Title 12, Chapter 51 Provides a Two Year Statute of Limitations with Regard to Properties Sold at Tax Sales.

Chapter 51 of Title 12 provides, in two separate statutes, for a two year Statute of Limitation with regard to properties sold at tax sales. First, § 12-51-90 establishes the procedure to be followed in the event of redemption and in the event the property is not redeemed. In relevant part, § 12-51-90(C) states the following with regard to situations where the property is not redeemed:

If the defaulting taxpayer, grantee from the owner, or mortgage or judgment creditor fails to redeem the item of real estate sold at the delinquent tax sale within the twelve months provided in subsection (A) and after the passing of an additional twelve months, the tax deed issued is incontestable on procedural or other grounds.

This two-year statute of limitations is reiterated and expanded to include a presumption of valid ownership “in the holder” of a tax deed in S.C. Code Ann. § 12-51-160 (2014), which provides:

In all cases of tax sale the deed of conveyance, whether executed to a private person, a corporation, or a forfeited land commission, is prima facie evidence of a good title in the holder, that all proceedings have been regular and that all legal requirements have been complied with. An action for the recovery of land sold pursuant to this chapter or for the recovery of the possession must not be maintained unless brought within two years from the date of sale as provided in Section 12-51-90(C).

By failing to institute the instant action until February 2, 2021, plaintiff has failed to meet the two-year statutory requirements.

B. The Failure to Mark “Restricted Delivery” is a Mere Irregularity

The Defendant Treasurer has admitted to an irregularity in the mailing of the final redemption notice, namely failure to make the certified mailing “restricted delivery.” The only question is whether such irregularity is jurisdictional. If not, and it is a mere irregularity, then


the statute of limitations applies and the plaintiff's case is barred.

CONCLUSION

The Treasurer made an error in mailing the final redemption notice, but that error is a mere irregularity which caused no harm to plaintiff.

The Treasurer did everything right except check a box. The certified mail came back undeliverable and would have done so even if the box had been checked. The plaintiff was unharmed by the irregularity.

Taking every fact and circumstance, the admitted error was a mere irregularity and the court upholds the 2018 tax sale at issue based on the two year Statute of Limitations found in §§ 12-51-90(A) and 12-51-160.


JOSEPH M. STRICKLAND
As Master-In-Equity for
Richland County

December 1, 2021
Columbia, South Carolina