

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS  
CASE NO.: 2021-CP-40-00455

Ossama A. Rahman, )  
 )  
Plaintiff, )  
 )  
-vs- )  
 )  
Joy Cottle and Treasurer for Richland County, )  
 )  
Defendants. )  
\_\_\_\_\_ )

**NOTICE OF MOTION AND MOTION  
TO RECONSIDER ORDER  
FINDING FOR THE DEFENDANTS**

TO: THE HONORABLE JOSEPH M. STRICKLAND, MASTER IN EQUITY FOR RICHLAND COUNTY; ROGER P. ROY, JR., ESQUIRE, ATTORNEY FOR DEFENDANT, JOY COTTLE; AND ELIZABETH MCLEAN, ESQUIRE, ATTORNEY FOR DEFENDANT, TREASURER FOR RICHLAND COUNTY:

YOU WILL PLEASE TAKE NOTICE that the Plaintiff, Ossama A. Rahman, by and through his undersigned attorney, will move before the Honorable Joseph M. Strickland, Master in Equity, at such time as is convenient to the Court, pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, to reconsider said Judge’s Order Finding for the Defendants, which was filed in the Office of the Clerk of Court for Richland County on December 1, 2021, to address the following points:

1. The Judge erred in concluding that S.C. Code Sections 12-51-160 and 12-51-90 are applicable to the facts of this case.
2. The Judge erred in failing to conclude that the tax sale was void by virtue of the County’s failure to comply strictly with S.C. Code Section 12-51-120, which failure constituted a jurisdictional defect which rendered the statute of limitations inapplicable.
3. The Judge erred in effectively concluding that the statutorily – required notice to the taxpayer, in proper form, is not to be regarded as mandatory and to be strictly enforced.
4. The Judge erred in failing to conclude that, at the earliest, the limitation period

under Section 12-51-160 does not begin the run until the purchaser is put in possession of the subject property.

5. The Judge erred in concluding that the failure to mail the final redemption notice by certified mail “restricted delivery” was a “mere irregularity,” especially without citing any authority for such conclusion, and also without differentiating between a “jurisdictional defect” and a “mere irregularity.”

6. The Judge erred in failing to consider and apply *Manji v. Blackwell*, 323 S.C. 91, 473 S.E.2d 837 (Ct.App. 1996), which was cited in Plaintiff’s Brief. *Manji*, which is factually on point with the present action, involved a final redemption notice to the taxpayer, which, like the present case, was mailed certified mail, return receipt requested, but was not sent “delivery to addressee only.” A copy of said case is attached hereto. The Court in *Manji* held that the tax collector failed to comply with §12-51-120, which it regarded as mandatory and to be strictly enforced, resulting in the tax sale being invalid. Interestingly, notwithstanding the improperly mailed notice, the taxpayer’s wife accepted the notice and signed the receipt. Because statutory notices to taxpayers are constructive rather than actual, strict compliance is required; and even actual notice does not cure the failure to strictly adhere to the tax sale requirements. See *Osborne v. Vallentine*, 196 S.C. 90, 12 S.E.2d 856 (1941). Here, the Plaintiff received neither actual nor constructive notice.

s/Leonard R. Jordan, Jr.

Leonard R. Jordan, Jr., #3221  
JORDAN LAW FIRM  
211 Veterans Road, Suite D  
Columbia, South Carolina 29209  
(803) 726-1950 Tel  
(803) 726-1951 Fax  
ljordan@ljordanlaw.com  
Attorney for Plaintiff

Columbia, South Carolina  
December 9, 2021

## Manji v. Blackwell

Court of Appeals of South Carolina

June 4, 1996, Submitted ; June 17, 1996, Filed

Opinion No. 2524

### Reporter

323 S.C. 91 \*; 473 S.E.2d 837 \*\*; 1996 S.C. App. LEXIS 91 \*\*\*

Zulfikar Y. Manji, Appellant, v. Jimmy D. Blackwell, Joan Blackwell, and Stephen V. Ford, successor to James E. Clayton, Delinquent Tax Collector for Spartanburg County, Respondents.

**Subsequent History:** [\*\*\*1] Rehearing Denied August 22, 1996.

**Prior History:** Appeal From Spartanburg County. Gary E. Clay, Circuit Court Judge.

**Disposition:** AFFIRMED

**Counsel:** H. W. Pat Paschal, Jr., of Greenville, for appellant.

Richard H. Rhodes, of Spartanburg, for respondents.

**Judges:** CURETON, GOOLSBY and ANDERSON, JJ., concur.

### Opinion

---

[\*92] [\*\*837] PER CURIAM: The trial court granted respondents summary judgment, declared a tax sale of Jimmy Blackwell's property null and void, and set aside the resulting tax deed to appellant, Zulfikar Manji. We affirm.<sup>1</sup>

Jimmy Blackwell owned 1.93 acres of land in Spartanburg County. After he failed to pay his 1991 property taxes, the Spartanburg County delinquent tax collector sold the property at a tax sale to Zulfikar Manji on October 5, 1992. On August 19, 1993, the delinquent tax collector mailed the final redemption notice to Blackwell by certified mail. Blackwell's wife, Joan, [\*\*\*2] accepted the notice and signed the receipt. Blackwell failed to redeem his property. The delinquent tax collector delivered a tax deed to Manji on October 28, 1993, transferring complete title to the property to Manji. Blackwell, [\*93] however, refused to vacate the property. As a result, Manji brought this eviction action against Blackwell. Respondents moved for summary judgment pursuant to Rule 56, SCRCP. The trial judge granted summary judgment, holding the tax sale and subsequent deed to appellant were invalid because the delinquent tax collector failed to properly notify Blackwell of the end of the redemption period pursuant to S.C. Code Ann. § 12-51-120 (Supp. 1995).

"Summary judgment is appropriate when it is clear that there is no genuine issue of material fact and that the moving party is entitled to a judgment as a matter of law." *Cafe Associates, Ltd. v. Gerngross*, 305 S.C. 6, 9, 406 S.E.2d 162, 164 (1991). "In ruling on a motion for summary judgment, the evidence and the inferences which can be drawn therefrom should be viewed in the light most favorable to the nonmoving party." *Id.*

The [\*\*\*3] South Carolina Supreme Court has "consistently held the enforcing agencies [\*\*838] of government to strict compliance with all the legal requirements surrounding tax sales." *Dibble v. Bryant*, 274 S.C. 481, 483, 265 S.E.2d 673, 675 (1980). A statutorily-based tax sale requires strict adherence to the tax sale requirements. *See Aldridge v. Rutledge*, 269 S.C. 475, 238 S.E.2d 165 (1977) (holding that tax sale may not be upheld without strict compliance with statutory requirements; failure to provide notice to true owner is not excused, regardless of actual notice); *see also South Carolina Fed. Sav. Bank v.*

---

<sup>1</sup> Because oral argument would not aid the court in resolving the issues, we decide this case without oral argument.

323 S.C. 91, \*93; 473 S.E.2d 837, \*\*838; 1996 S.C. App. LEXIS 91, \*\*\*3

*Atlantic Land Title Co.*, 314 S.C. 292, 442 S.E.2d 630 (Ct. App. 1994)("Statutory requirements protecting against tax sale forfeiture of real property are strictly construed, and statutory notice requirements may not be circumvented simply by establishing actual notice of a tax sale."); *Donohue v. Ward*, 298 S.C. 75, 378 S.E.2d 261 (Ct. App. 1989) [\*\*\*4] (failure to give twenty day notice fatal to sale and delivery of tax deed despite a lack of prejudice to true owner); *Rose v. Bradwell*, 295 S.C. 147, 367 S.E.2d 443 (Ct. App. 1988)(holding tax sale void because tax collector, in tax sale advertisement which purported to identify property to be sold, referenced an incorrect tax map number; Court required strict compliance with the statutory requirement that the advertisement specify the property to be sold). Because notice to the landowner as required by the tax sale statutes is constructive [\*94] rather than actual, the court requires strict compliance with these statutes. *Osborne et al. v. Vallentine*, 196 S.C. 90, 12 S.E.2d 856 (1941). "The sound view is that all requirements of the law leading up to tax sales which are intended for the protection of the taxpayer against surprise or the sacrifice of his property are to be regarded mandatory, and are to be strictly enforced." *Aldridge*, 269 S.C. at 478, 238 S.E.2d at 166 [\*\*\*5] (quoting *Osborne et al. v. Vallentine*, 196 S.C. 90, 12 S.E.2d 856 (1941)). *Accord Good v. Kennedy*, 291 S.C. 204, 352 S.E.2d 708 (Ct. App. 1987) ("While statutory provisions which are intended merely for the convenience of taxing officers in the conduct of sales need not be strictly complied with, . . . the law is otherwise as to provisions intended for the protection of the taxpayer."). "Where a statute requires as a condition precedent to foreclosing a taxpayer's rights in property sold for taxes that he be given notice of his right to redeem, such a requirement is 'generally regarded as jurisdictional, and therefore, the owner's right of redemption cannot be cut off unless the required notice is given.'" *Good*, 291 S.C. at 207, 352 S.E.2d at 711 (quoting 72 AM. JUR. 2D *State and Local Taxation* § 1010 (1974)). Section 12-51-120 clearly requires the tax collector to send a redemption notice "certified mail, return receipt requested - deliver to addressee only." Manji [\*\*\*6] conceded the redemption notice was not sent "delivery to addressee only." Rather, it was sent certified mail only, and Blackwell's wife signed the receipt. <sup>2</sup> The tax collector clearly failed to comply with the notice requirements of § 12-51-120.

Accordingly, the order of the trial judge is

**AFFIRMED.**

CURETON, GOOLSBY and ANDERSON, JJ., concur.

---

End of Document

---

<sup>2</sup> Joan Blackwell owns no interest in the property.