

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF MARLBORO )

IN THE COURT OF COMMON PLEAS  
CASE NO.: 2021-CP-34-00150

**RECEIVED**

RS&A Piping & Fabrication, Inc. a/k/a )  
R. S. & A. Piping, Inc., )

DEC 19 2022

Plaintiff, )

**SC Court of Appeals**  
**NOTICE OF MOTION AND**  
**MOTION TO RECONSIDER**  
**ORDER OF DISMISSAL**  
(with Plaintiff's Memorandum)

-vs- )

Ronald D. Kirby, Dylan T. Kirby, Treasurer )  
for Marlboro County, and Danny T. Williams, )

Defendants. )

TO: ALLISON TRUITT BURCH, ESQUIRE, ATTORNEY FOR DEFENDANTS, RONALD D. KIRBY, DYLAN T. KIRBY AND DANNY T. WILLIAMS; AND ANDREW F. MCLEOD, ESQUIRE, ATTORNEY FOR DEFENDANT, TREASURER FOR MARLBORO COUNTY:

YOU WILL PLEASE TAKE NOTICE that the Plaintiff, RS&A Piping & Fabrication, Inc. a/k/a R. S. & A. Piping, Inc., by and through its undersigned attorney, will move before the Honorable Roger E. Henderson, Presiding Judge, at such time as is convenient to the Court, pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, to reconsider the Order of Dismissal issued by the said Judge on November 4, 2021, which was filed in the Office of the Clerk of Court for Marlboro County on November 4, 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 with S.C. Code Section 12-51-120, thereby rendering the statute of limitations inapplicable. (See the attached Plaintiff's Memorandum for a thorough discussion of this point.)
3. The Judge erred in failing to conclude that, at the earliest, the limitation period

under Sections 12-51-160 and 90 does not begin the run until the purchaser is put in possession of the subject property. (See the attached Plaintiff's Memorandum for a thorough discussion of this point.)

4. The Judge erred in failing to consider, and follow, the decision of the Court of Appeals in the case of *Leake v. Ethridge*, 2005 S.C. App. Unpub. LEXIS 377, a copy of which is attached to the Plaintiff's Memorandum (In Support of Motion to Reconsider Order of Dismissal). (See the Plaintiff's Memorandum for a discussion of said case.) [Note: A copy of this case was handed-up to the Judge by counsel for Defendants, Ronald D. Kirby, Dylan T. Kirby and Danny T. Williams, during the motion hearing on August 31, 2021.] This case is precisely on point with the facts and the arguments in the present case.

5. The Judge erred in dismissing the Plaintiff's cause of action for Conversion, which has no direct connection with the tax sale or with Sections 12-51-160 and 90.

6. The Judge erred in granting the Motion to Dismiss, filed by the Defendant, Treasurer for Marlboro County, which has no standing whatsoever to seek dismissal of the Conversion cause of action, which involved personal property belonging to the Plaintiff (not the real property sold at a tax sale) and, in fact, the Motion to Dismiss only discusses the application of tax sale statutes, to wit: §§12-51-160 and 90, which involve the limitation period for contesting tax sales.

s/Leonard R. Jordan, Jr.  
Leonard R. Jordan, Jr., #3221  
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November 12, 2021