

**RECEIVED**

**Jun 27 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

Case No. 2018-CP-21-02662

Sandy Hill Partners, LLC .....Appellant,

v.

Central Palmetto Asset Management, LLC  
and the County of Florence..... Respondents,

**APPELLANT’S PETITION FOR REHEARING**

Walker H. Willcox #72608  
Willcox, Buyck & Williams, P.A.  
PO Box 1909  
Florence, S C 29503-1909  
(843) 662-3258 - Tel.  
(843) 662-1342 - Fax  
Email: [wwillcox@willcoxlaw.com](mailto:wwillcox@willcoxlaw.com)  
Attorney for Appellant

Pursuant to Rule 221(a), SCACR, the Appellant (hereinafter referred to as the “Plaintiff”) respectfully petitions the Court for a rehearing based on points overlooked or misapprehended by the Court. The Opinion of the Court was filed on June 14, 2023.<sup>1</sup>

I. The Court of Appeals incorrectly presumed facts for the Respondents and discredited evidence submitted by the Plaintiff to affirm the Trial Court’s decision.

A. Standard applicable to dismiss the Plaintiff’s claim by summary judgment.

Summary judgment is only appropriate when the record on file demonstrates there are no genuine issues of material fact such that the moving party must prevail as a matter of law. Turner v. Milliman, 392 S.C. 116, 121-122, 708 S.E.2d 766, 769 (2011). When determining if any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party.” Id. “[To] withstand a motion for summary judgment in cases applying the preponderance of evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence.” Id.

In addition, the scrutiny applied to sales involving the government seizure of private property is even more exacting. Tax sales must be conducted in strict compliance with statutory requirements. Hawkins v. Bruno Yacht Sales, 353 S.C. 31, 36, 577 S.E.2d 202, 205 (S.C. 2003). Failure to give the required notice of a tax sale “is a fundamental defect in the tax sale proceedings that renders the proceedings absolutely void.” Id. “All requirements of law leading up to tax sales which are intended for the protection of the tax payer [sic] against surprise or the sacrifice of his property are to be regarded as mandatory and strictly enforced.” Rives v. Bulsa, 325 S.C. 287, 292-293, 478 S.E.2d 878, 881 (Ct. App. 1996).

---

<sup>1</sup> For the sake of brevity, the Plaintiff uses the same abbreviated designations as in its Final Brief.

B. Mark M. Richardson and RMR Rental Investments, LLC, III are different taxpayers.

At the outset of the Court of Appeals' opinion, it generally describes RMR Rental Investments, LLC, III ("RMR") as a sole proprietorship. That statement is incorrect, and the distinction that RMR is a separate entity from Richardson is important in this case. RMR is a limited liability company, a distinct entity. The Plaintiff purchased the park and Homes from RMR, not Richardson. (Affidavit of Andrew Nissen, ¶ 1; R. pp.189 and Exhibit B, Deed; R. p. 192). Richardson owned mobile homes in his name and RMR owned mobile homes in its name. (Advertisement; R. pp. 203-206). Richardson owned other mobile homes located in the park that he did not sell to the Plaintiff. The County identified some of these homes as "Sandy Hills MHP" as shown in the advertisement. Id.

The tax notices against the Homes were never issued in the name of RMR. This means that a search of the tax records by someone purchasing homes from RMR would not uncover delinquent taxes against the Homes. (Affidavit, ¶ 3 and ¶ 5; R. p. 189). A tax lien against Richardson would not attach to the Homes, and the lien against Richardson does not have priority over the Plaintiff's interest in the Homes purchased from RMR. *See* S.C. Code §§ 12-49-10 and 12-49-30.<sup>2</sup>

The County sold the homes and advertised the homes for sale in the name of Richardson and not the name of the actual owner, RMR. Discovering this deficiency, the County issued an **undated** notice to RMR that the Homes had been sold. The Respondents presented no evidence to explain the reason the County imposed a lien against the wrong taxpayer or that it even attempted to discover the correct owner before the sale. The record is void of a prior registration

---

<sup>2</sup> The opinion does not address the other issue in this case involving the priority of the County's lien against Richardson versus the Plaintiff's interest. The County admittedly never asserted a lien against RMR.

or application by Richardson that he previously owned the Homes or any notices or bills that predate the sale. The Plaintiff submitted titles demonstrating that RMR had been the legal title holder since 2008, which was seven years before the County seized the Homes in the name of Richardson. (RMR Titles; R. pp. 195-198).

These undisputed facts distinguish this case from the South Carolina Supreme Court's decision in Johnson v. Arbabi, which the county imposed a lien against the correct taxpayers but used an outdated address for one of them. 355 S.C. 64, 67, 584 S.E.2d 113, 114 (2003). In Rives v. Balsa, the South Carolina Court of Appeals expressly states that the taxing statutes and cases interpreting them require that the property is listed, assessed, levied upon, advertised and sold in the name of the "true owner." 325 S.C. 287, 293, 478 S.E.2d 878, 881 (1996)(emphasis added). None of these things happened in this case.

The only explanation given for the incorrect notice and ineffective attachment is the assumption that at some point the County reasonably believed Richardson was the owner of the Homes. As stated above, nothing in the record supports this assumption. Conversely, the evidence in the record that the County did not reasonably believe Richardson was the owner include that the Homes were titled in the name of RMR for more than seven years prior to the sale and that a simple DMV search revealed the correct owner. The Plaintiff respectfully contends that the Court of Appeals gives the County impermissible deference on this point.

To compound the confusion and provide additional genuine issues of material fact, the Notices of Levy against the Homes do not correspond with the lots at the park and the advertisements are doubly misleading. First, the Plaintiff presented a spreadsheet showing the lot locations of the Homes. (Spreadsheet; R. pp. 194). The lot numbers for three of the four Homes do not correspond with the Notices of Levy. A Destin Home is on Lot 61 (R. p. 135) and

not a Bellcrest (Compare R. p. 135 to R. p. 194); A 2000 Fleetwood is not located at Lot 54 (Compare R. p. 164 to R. p. 194); and a 1996 Oakwood is not located at Lot 17 (Compare R. p. 186 to R. p. 194). There is no Home located on Lot 17. (R. p. 194). A reasonable inference and disturbing reality are that the County seized the wrong homes. These discrepancies in the lot numbers are consistent with the Affidavit of Andrew Nissan, who stated under oath that he did not see notices of levies on the Homes. (Aff. at ¶ 5; R. p. 189). The spreadsheet along with Mr. Nissan's affidavit place this case squarely within the rationale of Forfeited Land Comm'n of Bamberg Cty. v. Beard, 424 S.C. 137, 143, 817 S.E.2d 801, 804 (Ct. App. 2018). Interestingly, like the tax file in Beard, the tax file in this case does not include a picture of the homes that were levied. Id.

Second, the advertisements admittedly use the wrong name and include only a tax map number, which apparently has no meaning, to identify the property. (Advertisement; R. pp. 203-206). If the numbers have a meaning and are a way to identify the Homes, this meaning was not explained by either the Respondents or in the opinion. In Hawkins, the South Carolina Supreme Court requires an advertisement to use the correct taxpayer name and a registration number that allows a taxpayer to identify the property being sold. 353 S.C. at 36, 40-41, 577 S.E.2d at 207.

In conclusion, the case is not just one of implied agency or an outdated address. Rather, the County attempted to assert and foreclose a lien against the wrong taxpayer which ultimately damaged a good faith third-party purchaser for value. Compounding the unfairness of this result is that it has been done without giving the Plaintiff a trial on the merits. Almost all the cases relied on in the opinion resulted from a trial and not under a summary judgment standard. The Plaintiff demonstrates more than a scintilla of evidence and summary judgment must be denied.

C. The evidence demonstrates that the Plaintiff is entitled to storage and/or rent.

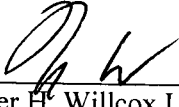
The County kept the Homes in the park after it sold and collected money for the Homes. South Carolina Code Section 12-51-40(d) requires the County to add and collect the costs of the levy including storage. No dispute exists that the Homes were left at the park, where every other tenant pays rent to keep a home, for months if not years while CPAM voluntarily waited to take possession and collected rent from at least one tenant. In this case, no discernable difference exists between the terms storage and rent. The statute does not allow the County to impose a burden on a third party so that it can freely collect unpaid taxes. Moreover, CPAM and any other person knew or should have known that a mobile home cannot be stored at a park for free. No demand for rent or storage was necessary. Regardless, the Plaintiff was not given the opportunity to pursue this claim or the claim for unjust enrichment based on the grant of summary judgment.

### CONCLUSION

The Appellant requests that the Court grant a rehearing.

WILLCOX, BUYCK & WILLIAMS, P.A.

By: \_\_\_\_\_

  
Walker H. Willcox I.D. No. 72608  
PO Box 1909  
Florence, SC 29503-1909  
(843) 664-3373 - Tel - (843) 662-1342 - Fax  
*Attorney for Appellant*

June 27, 2023

**RECEIVED**

**Jun 27 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

Case No. 2018-CP-21-02662

Sandy Hill Partners, LLC .....Appellant,

v.

Central Palmetto Asset Management, LLC  
and Florence County ..... Respondents,

PROOF OF SERVICE

I certify that on June 27, 2023, I served the Appellant’s Petition for Rehearing on the Respondents, through their attorneys of record, by depositing a copy of same in the United States Mail, postage prepaid, to:

Theodore von Keller  
Sara C. Hutchins  
Crawford & Von Keller, LLC  
P.O. Box 4216  
Columbia, SC 29204  
Attorney for Central Palmetto Asset Management, LLC

D. Malloy McEachin, Jr.  
D. Malloy McEachin, Jr. P.A.  
180 N. Irby St., Room 503  
Florence, SC 29501  
Attorney for Florence County

WILCOX, BUYCK & WILLIAMS, P.A.

By:

  
Walker H. Willcox I.D. No. 72608

PO Box 1909

Florence, SC 29503-1909

(843) 664-3373 - Tel

(843) 662-1342 - Fax

*Attorney for Appellant*

June 27, 2023

Mark W. Buyck, Jr.  
Hugh L. Willcox, Jr.  
Wm. Reynolds Williams♦  
Mark W. Buyck, III  
E. Lloyd Willcox, II  
Tracy L. Wright  
J. Scott Kozacki  
Walker H. Willcox  
Paula A. Sartor

LAW OFFICES  
**WILLCOX, BUYCK, & WILLIAMS**  
PROFESSIONAL ASSOCIATION  
WWW.WILLCOXLAW.COM  
248 WEST EVANS STREET (29501)  
POST OFFICE BOX 1909  
FLORENCE, SOUTH CAROLINA 29503-1909

2050 Corporate Centre Dr.  
Suite 230  
Myrtle Beach, SC 29577  
Telephone (843) 650-6777  
Fax (843) 650-6767

H Additionally Licensed  
♦ Certified Mediator

Reply To: Florence

ESTABLISHED 1895

Telephone (843) 662-3258  
Fax (843) 662-1342

June 27, 2023

**RECEIVED**  
**Jun 27 2023**  
**SC Court of Appeals**

EMAIL: [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)  
HONORABLE JENNY ABBOTT KITCHINGS  
CLERK OF COURT  
SOUTH CAROLINA COURT OF APPEALS  
1220 SENATE STREET  
COLUMBIA, SC 29201

Re: Sandy Hill v. Central Palmetto Asset Management, LLC and the County of Florence  
Civil Case No: 2018-CP-21-2662  
Appellate Case No: 2019-001527  
Our File No: 16244.17506

Dear Ms. Kitchings:

Kindly find enclosed a copy of the Appellant's Petition for Rehearing and Proof of Service which was emailed and mailed today in the above referenced matter. Also enclosed is a check in the amount of \$50.00 for the filing fee, made payable to the Court of Appeals.

Should you have any questions or concerns, please contact me at (843) 662-3258.

With kindest regards,



Walker H. Willcox  
Email: [wwalker@WillcoxLaw.com](mailto:wwalker@WillcoxLaw.com)

WHW/mkh  
Enclosures

Cc: Theodore von Keller  
Sara Christine Hutchins  
D. Malloy McEachin, Jr.

DATE	DESCRIPTION	INVOICE #	CHECK		NET AMOUNT
			AMOUNT	DEDUCTION	
06/27/2023	1374 SC COURT OF APPEALS	16244.17506	50.00		50.00

CHECK DATE	CONTROL NUMBER	TOTALS ▶	Gross:	Ded:	Net:
06/27/2023	105050		50.00	0.00	50.00



Willcox Buyck & Williams, P.A.  
 Florence Operating  
 P.O. Box 1909  
 Florence, SC 29503-1909

SYNOVUS BANK  
 2500 WESTON RD, STE 300  
 WESTON, FL 33331  
 63-60/611

105050

DATE: 06/27/2023  
 CHECK: 105050  
 AMOUNT: \*\*\*\*\*\$50.00

\*\*\* FIFTY & 00/100 DOLLARS

**PAY**  
 TO THE  
 ORDER OF: SC COURT OF APPEALS

*Maryalice Young*