

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
OF THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2022-CP-10-03492

PVone REO, LLC,)
Plaintiff,)
vs.)
The Estate of Mary A. White,)
et al.,)
Defendant.)

MASTER'S ORDER
(Denying Motion to Intervene and
Motion to Vacate)

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SC Court of Appeals

This matter came before me on April 13, 2023 pursuant to DeWayne Alphonza Sykes' ("Mr. Sykes") two Motions filed on January 31, 2023, to both Intervene in the case and to Vacate this court's Final Order to Quiet Tax Title entered on January 12, 2023. Present at the Hearing was John J. Dodds III, attorney for Plaintiff ("Attorney Dodds"), and Mr. Sykes, appearing Pro Se. The Court heard oral argument from both Attorney Dodds and Mr. Sykes and, upon request, afforded both parties the opportunity to submit to the Court additional records from the Charleston County Probate Court as well as Deeds to the real property the subject of this action.

Mr. Sykes provided the Court with the following records from Probate Court:

1. Last Will and Testament of Frank White, Sr.;
2. Devise/Descent of Real Estate in the estate of Frank White, Sr., Case # 73-559, reflecting Mary Ancrum White, widow of Frank White, Sr., a life estate, and Frank White, Jr., William Timothy White, Clinton White, and Dewayne Alphonza White, remainder in fee simple, as to the property at 1953 Jacksonville Road, North Charleston, SC and also the property which lies adjacent to and immediately to the rear of 1953 Jacksonville Road;
3. Petition to Prove Will in Common Form of Law and for Letters, the Estate of Frank White, Sr.;
4. Order dismissing Mary Ancrum White as Executrix of Estate of Frank White, Sr.;
5. Application for Appointment, Estate of Mary Ancrum White, 96-ES-10-01600;

6. Exhibit A for Schedule A reflecting that Mary Ancrum White had a 100% ownership interest in Lot Y, Jacksonville Road, TMS# 466-03-00-154 (aka 1959 Jacksonville Road, North Charleston, SC 29405), the subject of this Quiet Title After Tax Sale action ("Subject Property"); and
7. Death Certificate of Mary Ancrum White.

Attorney Dodds provided the Court, with the following Deeds:

1. Deed from Frank White to Ida Gadsden, dated 8/5/39, recorded in the Office of the Register of Deeds for Charleston County ("ROD") on 8/8/39, in Book O-40, at Page 739;
2. Deed from Mary A. White to Lucreita B. Lucado, dated 4/6/81, recorded in the ROD on 4/6/81, in Book B-125, at Page 221; and
3. Deed from Lucreita B. Lucado to Mary A. White, dated 4/20/81, recorded in the ROD on 4/20/81, in Book E-125, at page 036.
4. Deed from Clinton White, Dewayne A. White and William Timothy White to Mary A. White dated 5/15/89, recorded in the ROD on 5/30/89 in Book T184, at page 216.

Upon due consideration of the arguments of Attorney Dodds and Mr. Sykes, respectively and after carefully reviewing the Charleston County probate records, I find and conclude:

ONE: At the time of the November 16, 2020 Tax Sale (the subject of this action) the title owner of the Subject Property was Mary A. White who had a fee simple interest by virtue of the adverse possession action she and others initiated in the Court of Common Pleas for Charleston County in 1979, (Case Number 1979-CP-10-2289) which resulted in a Deed to Mary A. White from Lucreita B. Lucado, dated 4/20/81, recorded in the ROD on 4/20/81, in Book E-125, at page 036. In addition, the records reflect the remaindermen of Mary A. White's Life Estate conveyed their interest to her by Quitclaim deed recorded in Book T184, page 216 recorded May 30, 1989. Mary A. White thereafter died intestate on 11/27/96. Although an estate was opened for Mary Ancrum White as noted above, no Deed of Distribution or Devise/Descent was ever

filed in her Estate despite it running from 1996 until closed in 2014 by Rule 4 for failure to complete the administration;

TWO: Mr. Sykes' argument that Mary A. White only had a life estate in the Subject Property and that Frank White, Sr. had an interest in the Subject Property are misplaced. As noted above, Frank White, Sr. transferred all his interest in the Subject Property to Ida Gadsen by Deed, dated 8/5/39, recorded in the Office of the Register of Deeds for Charleston County ("ROD") on 8/8/39, in Book O-40, at Page 739 and Mary A. White had fee simple title to the Subject Property by virtue of the adverse possession action she and others initiated in the Court of Common Pleas for Charleston County in 1979, C/A# 1979-CP-10-2289, which resulted in an order from Master in Equity confirming title and then a Deed issued to Mary A. White from Lucreita B. Lucado, dated 4/20/81, recorded in the ROD on 4/20/81, in Book E-125, at page 036; and finally the Quitclaim deed from her sons conveying their remainder interest in the property to Mary A. White by Deed T184, page 216 resulted in her fee simple ownership of the property.

THREE: Mr. Sykes was aware of the Tax Sale of the Subject Property which occurred on November 16, 2020, as evidenced by his letter to Plaintiff's prior legal counsel, A. Parker Barnes, Esq. dated April 5, 2022. In addition, the Delinquent Tax Office file shows that Notice of the Tax Sale was sent to Mr. Sykes and Ms. White's mail address of 1953 Jacksonville Road by both regular US Mail and by certified mail addressed to Ms. White as the title holder of record. The property was properly posted for the Tax Sale on October 20, 2020 prior to the November 16, 2020 tax sale. In addition, Notice of Final Redemption was also sent via Certified Mail to the mailing address to "Mary A White or if Dec'd Heirs of Same" as well. Mr. Sykes did not challenge Plaintiff's title to the Subject Property, which has an address of 1959 Jacksonville Road, because Mr. Sykes' letter references only property located at 1953 Jacksonville Road.

Plaintiff's title search and the title search performed by the Tax Collector's Office did not find Mr. Sykes had any interest in the Subject Property, nor that Mary A. White only had a life estate. Mr. Sykes could have timely intervened during this action and asserted the claims he propounded in his letter of April 5, 2022, but did not do so;

FOUR: Edrian Trakas, Tax Collector for Charleston County, through an affidavit received in evidence at the merits hearing in this case, indicated that all notices of delinquent taxes, the execution, levy, posting, advertisements, tax sale, and notices of right of redemption sent to interested parties entitled to notice were performed in accordance with the usual procedures of the Tax Collector's Office and were in strict conformity with all statutory requirements. Mr. Sykes has presented no evidence to the contrary although the Court gave him the opportunity to submit whatever documents he desired prior to the Court issuing this ruling on his Motion to Intervene and to Vacate;

FIVE: Per Section 12-51-160, Code of Laws of South Carolina, 1976, as amended, in all cases of tax sale the deed of conveyance 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 Chapter 51 entitled "Alternate Procedure for Collection of Property Taxes" or for the recovery of possession must not be maintained unless brought within two (2) years from the date of the sale as provided in Section 12-51-90(C). Mr. Sykes was clearly aware of the tax sale in April, 2022, prior to the expiration of two (2) years from the tax sale, but took no action.

Moreover, Mr. Sykes is judicially estopped from asserting that Mary A. White did not acquire fee simple title to the Subject Property through the action she initiated in 1979 and 1989 Quitclaim deed as noted above. Cothran v. Brown, 357 SC 210, 592 S.E.2d 629 (2004); and

SIX: The decision to grant or deny a motion to intervene in an action pursuant to Rule 24, SCRPC, lies within the sound discretion of the trial court. Government Employee's Ins. Co., Ex parte, 644 S.E.2d 699 (2007). After considering the arguments of Attorney Dodds and Mr. Sykes, respectively, at the Motions Hearing and upon review of all the evidence before the Court, including the documents presented to the Court by Attorney Dodds and Mr. Sykes after the Motions Hearing, the Court denies Mr. Sykes' Motion to Intervene as untimely.

SEVEN: Mr. Sykes also seeks to have this Court's Quiet Title Order vacated pursuant to Rule 60(b)4, SCRPC on the basis that it is void for lack of subject matter jurisdiction and insufficient service of process. His argument is that he was a remainderman and, as a Life Tenant, Mary A. White could not affect his ownership interest in the property. The court has addressed above its basis for finding that, upon her death, Ms. White owned fee simple title to the property and that the Life Tenancy had been extinguished through both the court action as well as the recording of multiple deeds conveying title to her in fee. As this argument is the sole basis for his Rule 60 motion, the Court finds it unfounded and denies the motion.

NOW, THEREFORE, it is HEREBY ORDERED, ADJUDGED and DECREED:

ONE: That the Motion to Intervene and Motion to Vacate this Court's final order (Action to Quiet Tax Title) shall be, and is hereby, DENIED;

TWO: That Plaintiff shall be entitled to immediate possession of the Subject Property, together with improvements, located at 1959 Jacksonville Road, North Charleston, SC, TMS# 466-03-00-154; and

THREE: That as set forth in this Court's Final Order (Action to Quiet Tax Title) filed on January 12, 2023, in the event the Subject Property is occupied, the Sheriff shall be authorized to enter upon the Subject Property, by force if necessary, and to seize the Subject Property and remove any persons occupying the Subject Property, together with all his/her/their belongings and possessions, and to put Plaintiff in full, peaceful and quiet possession of the Subject Property without delay, and thereafter, within ten (10) days, make due return to the Clerk of Court for Charleston County showing how this Order has been executed.

SIGNATURE PAGE TO FOLLOW



Charleston Common Pleas

Case Caption: Pvone Reo Llc VS Mary A White Estate , defendant, et al

Case Number: 2022CP1003492

Type: Master/Order/Other

So Ordered

s/Mikell R. Scarborough 3062