

STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG )  
)  
EDGAR MORA ROMERO AND )  
UPSATE HOUSE PROJECTS, )  
LLC, )  
PLAINTIFFS, )  
)  
VS. )  
)  
NATHAN T. ROSEMOND, )  
)  
DEFENDANT. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
SEVENTH JUDICIAL CIRCUIT

FINAL ORDER QUIETING TITLE

**RECEIVED**  
**Jan 09 2024**  
**SC Court of Appeals**

2022-CP-42-2073

This is a Quiet Title and Declaratory Judgement action where both parties claim ownership of a piece of real property located in Spartanburg County. On December 11, 2023, the parties were before me for a trial on the merits via WebEx. At trial, the parties stipulated that Upstate House Projects, LLC would be added as a Plaintiff to this action and that originally named Defendants Coy Gideon and Michael Coy Gideon should be removed as parties in this matter.

The Plaintiffs are represented by Richard T. Rhodes, Esq. and the Defendant is represented by Rustin B. Duncan, Esq. Both parties, in their pleadings, seek an order of this Court declaring that they are the true owner of Lot 13 on Morgan Street in Greer and an order quieting title to that property. The real property is more particularly described as follows:

All that certain parcel or lot of land situate, lying and being in Spartanburg County, State of South Carolina, in the City of Greer on the West side of School Street and

being known and designated as Lot Number (13) on plat of Academy View, recorded in Plat Book 8, Page 23, RMC Office for Spartanburg County.

Tax Map # 9-03-14-269.00

### **Findings of Fact and Conclusions of Law**

Based upon the testimony and evidence presented, I hereby make the following findings of fact and conclusions of law:

The ultimate and dispositive issue presented is whether the Defendant received statutory notice of the tax sale of Lot 13. Clearly, part of the legislative intent of the Legislature for collection of property taxes is to provide appropriate notice to the defaulting taxpayer of their rights prior to the seizure and sale of their real estate. This is consistent with the fundamental concepts of due process. The statutory requirements are intended for the protection of the taxpayer against surprise or the sacrifice and loss of their property. Hawkins v. Bruno Yacht Sales, 353 S.C. 31 (S.C. 2003), *see also* King v. James, 388 S.C. 16 (S.C. App. 2010).

For the most part, the facts involved herein are uncontested. On August 22, 1995, Defendant Nathan Rosemond purchased two lots from Coy Gideon and Michael Coy Gideon located on Morgan Street, Greer, SC 29651 via deed recorded in Deed Book 63D at Page 647 at the Spartanburg County Register of Deeds. The Gideons purchased these lots in 1979. The two lots are lot 12 (with Tax Map # 9-03-14-268.00) and lot 13 (with Tax Map # 9-03-14-269.00). A house is erected on lot 12 and the adjoining lot 13 contains no

structure. A fence surrounds both lots with both lots being within the bounds of the fence.

After Mr. Rosemond purchased these lots in 1995, Spartanburg County updated the ownership record on lot 12 to reflect Mr. Rosemond as the owner. However, the County never updated their records to reflect Mr. Rosemond as the owner of lot 13. As such, Mr. Rosemond never received any tax bills for lot 13 and the taxes on lot 13 were not paid. Mr. Rosemond received and paid every tax bill for lot 12 since purchasing the property.

Since Mr. Rosemond was never listed as the owner of lot 13 by the County, when the County initiated the tax sale process on lot 13 in 1997, Mr. Rosemond was never sent any notice. A review of the Tax Collector's file, which was made an exhibit at trial, shows that all notices were sent to Coy Gideon and Micheal Coy Gideon despite Mr. Rosemond's recorded deed from 1995.

It is uncontroverted that Mr. Rosemond did not receive any of the tax sale notices or redemption notices. The parties stipulated at trial that Mr. Rosemond did not receive notice of the tax sale proceedings, Mr. Rosemond himself testified that he received no notice, and the Tax Collector's file contains no notice to Mr. Rosemond.

On December 1, 1997, Spartanburg County purported to sell lot 13 to Milton Anonaros (however, the parties stipulated at trial that it was clear than "Anaonaros" was a typographical error and the property was conveyed to Milton "Antonakos"). The tax deed was recorded in Deed Book 67-K at Page 535 at the Spartanburg County Register of Deeds. This tax deed listed Coy Gideon and Michael Coy Gideon as the defaulting

taxpayers rather than Mr. Rosemond, despite the 1995 deed transferring the property to Mr. Rosemond.

On December 29, 2014, Mr. Antonakos, by and through his estate, attempted to transfer lot 13 to Plaintiff Edgar Mora Romero via a deed recorded at the Spartanburg County Register of Deeds in Deed Book 107-Z at Page 542. However, while this deed listed the correct tax map number for lot 13, it contained an incorrect legal description for lot 13. On May 14, 2021, Plaintiff Romero purported to convey lot 13 to Plaintiff Upstate House Projects, LLC via deed recorded at the Spartanburg County Register of Deeds in Book 132-E at Page 981. However, this deed also contained the incorrect legal description. On May 4, 2022, a corrective deed from The Estate of Milton Antonakos to Plaintiff Romero correcting the legal description to reflect lot 13 was recorded at the Register of Deeds for Spartanburg County in Deed Book 136-Z at Page 417. However, Plaintiff Romero was no longer the record owner of the property as he had already deeded it to Plaintiff Upstate House Projects, LLC. No corrective deed was issued by Plaintiff Romero to Plaintiff Upstate House Projects, LLC.

The Gideons are Defendant Nathan Rosemond's wife's relatives Mr. Rosemond has always treated the two lots as one big lot. Mr. Rosemond has rented the property to the same tenant since 1995 and the tenant uses both lots, including using lot 13 for entry and exit of the property. Mr. Rosemond has maintained lot 13 since 1995 and that no one else has maintained the property.

Due process requires some sort of notice to a property owner before property is sold for delinquent taxes. If the taxing agency does not comply with all statutory notice

requirements, the tax sale is void. Manji v. Blackwell, 323 S.C. 91 (Ct. App. 1996). Even if the property owner has actual knowledge of the overdue taxes, the tax sale is void unless the required statutory notices are given. Donohue v. Ward, 298 S.C. 75 (Ct. App. 1989). None of the notices were given to Mr. Rosemond and thus the tax sale must be declared void.

S.C. Code Section 12-51-40(a) requires the notice of the Delinquent Tax to be sent to "the defaulting taxpayer and to a grantee of record of the property. The notice must be mailed to the address shown on the deed conveying the property to him. The sole act of tacking a notice of sale in the name of the prior owner to the property when the owner doesn't live there fails to give reasonable notice to the current owners in interest, as required by due process and statute. Dibble v. Bryant, 274 S.C. 481 (S.C. 1980). These required notices were not given to Mr. Rosemond and thus the tax sale must be declared void.

South Carolina Code Section 12-51-120 requires that prior to the end of the redemption period, the delinquent tax collector must give written notice to the defaulting taxpayer and to a grantee, mortgagee or lessee of the property of record. These required notices were not given to Mr. Rosemond and thus the tax sale must be declared void.

The right to notice of the tax sale is jurisdictional. Failure to give any notice in the manner proscribed prevents title to the property from being transferred to the successful bidder. Good v. Kennedy, 291 S.C. 204 (Ct. App. 1986).

The South Carolina Supreme Court has "consistently held the enforcing agencies of government to strict compliance with all the legal requirements surrounding tax sales."

Dibble, supra. All requirements of the law leading up to the tax sales, which are intended for the protection of the taxpayer against surprise or the sacrifice of his property, are to be regarded as mandatory, and are to be strictly enforced. Aldridge v. Rutledge, 269 S.C. 475 (S.C. 1977). Without strict compliance with the statutory requirements, a tax sale may not be upheld. Aldridge, supra. These required notices were not given to Mr. Rosemond and thus the tax sale must be declared void.

While the Plaintiffs raise multiple issues, the dispositive issue is that the Tax Collector did not send the required statutory notices related to the tax sale of lot 13 to Defendant Nathan T. Rosemond. It is uncontroverted that the Defendant never received notice of the impending tax sale nor of the end of the redemption period. As such, the clear intention of the statutes related to tax sales has not been met. Further, it is well established law in this state that strict compliance is required with all matters relating to tax sales. Hawkins, supra. This is based, in part, upon the law's recognition that the government's authority and ability to seize and sell property belonging to a taxpayer is a significant power. The statutory process was not created to punish taxpayers who have failed to pay their taxes because of legitimate mistake or error. Johnson v. Arbabi, 347 S.C. 132 (S.C. App. 2001). Failure to provide notice to the true owner is not excused regardless of actual notice. Aldridge, supra. In this case the actual owner received neither.

Based on the above, the fundamental concept of due process requires that the Tax Deed to lot 13, along with all subsequent deeds transferring lot 13, to be set aside.

Therefore, Defendant Nathan T. Rosemond is hereby declared the true and rightful owner of lot 13.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Tax Sale which occurred on December 1, 1997 for Tax Map # 9-03-14-269.00 is hereby set aside;
2. The resulting Tax Deed for the same, recorded in Spartanburg County Register of Deeds Office in Deed Book 67-K at Page 535, is hereby declared void and canceled;
3. That the subsequent transfer of the property by way of Deed from Milton Antanakos to Plaintiff Edgar Mora Romero via a deed recorded at the Spartanburg County Register of Deeds in Deed Book 107-Z at Page 542, is also declared void and canceled;
4. That the subsequent transfer of the property by way of deed from Plaintiff Romero to Plaintiff Upstate House Projects, LLC via deed recorded at the Spartanburg County Register of Deeds in Book 132-E at Page 981 is also declared void and canceled to the extent it transferred any interest in lot 13;
5. That the subsequent corrective deed from The Estate of Milton Antonakos to Plaintiff Romero correcting the legal description to reflect lot 13 was recorded at the Register of Deeds for Spartanburg County in Deed Book 136-Z at Page 417 is also declared void and canceled;
6. A copy of this Order may be filed in the Spartanburg County Register of Deeds office, and upon filing, the Register of Deeds shall enter in the public records,

under the names of Grantors and Grantees, the fact that the previously referenced deeds have been cancelled via Court Order.

AND IT IS SO ORDERED.



Spartanburg Common Pleas

**Case Caption:** Edgar Mora Romero VS Coy Gideon , defendant, et al  
**Case Number:** 2022CP4202073  
**Type:** Master/Order/Other

IT IS SO ORDERED.

s/ Shannon M. Phillips - 3087