

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

Case No. 2022-CP-10-03492

PVone REO, LLC,

Plaintiff,

vs.

The Estate of Mary A. White; Heirs-at-Law of Mary A. White; unknown Heirs-at-Law or Devisees of Mary A. White, Deceased; their Heirs, Personal Representatives, Administrators, Successors, and Assigns, and all other persons entitled to claim through them; all unknown owners, unknown heirs or unknown devisees of any deceased person, or by any such designation; and John Doe and Mary Roe, representing all unknown persons having or claiming to have any right, title, or interest in or to, or lien upon, the real estate described as 1959 Jacksonville Road, Charleston County, South Carolina, PIN 466-03-00-154, their heirs and assigns, and all other persons, firms, or corporations entitled to claim under, by or through the above-named Defendant(s), and all other persons or entities unknown claiming any right, title, interest, estate in, or lien upon, the real estate described as 1959 Jacksonville Road, Charleston County, South Carolina, PIN 466-03-00-154,

Defendants.

FINAL ORDER
(Action to Quiet Tax Title)
(Reference with Finality)

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SC Court of Appeals

THIS MATTER comes before me pursuant to the Order of Reference filed on September 26, 2022, for a merits hearing upon the action of Plaintiff PVone REO, LLC ("Plaintiff") to quiet its tax title to real property located in Charleston County and seeking an order of the Court confirming marketable, fee simple title. The hearing occurred on January 11, 2023.

FINDINGS OF FACT

The real property that is the subject of this action is known as 1959 Jacksonville Road, Charleston County, South Carolina, PIN 466-03-00-154 (the "Property"), as is more fully described in Plaintiff's Notice of Lis Pendens and as follows:

ALL THAT CERTAIN piece, parcel or lot of land, located in Charleston County, South Carolina, shown and designated as "LOT Y" on a plat entitled "RESUBDIVISION OF PROPERTY IN THE 5 MILE SECTION OF CHARLESTON COUNTY" prepared by W. L. Gaillard, Registered Surveyor, dated July 27, 1981, revised October 20, 1983, and recorded in Plat Book AY, Page 192, Charleston County records. Said lot having such size, shape, dimensions, metes, buttings and boundings as will by reference to said plat, more fully appear.

BEING a portion of the property conveyed to Mary A. White by deed from Lucreita B. Lucado, dated April 20, 1981, and recorded April 20, 1981, in Book E125, Page 036; and being the same property conveyed to PVOne REO, LLC by tax deed dated March 18, 2022, and recorded on April 7, 2022, in the Charleston County Register of Deeds Office in Book 1098, page 183.

PIN 466-03-00-154.

Amendment to Correct Property Address

Based on its title search, Plaintiff identified the Property address as 1935 Jacksonville Road in its prior pleadings and filings. At the hearing, it was determined that based on the Property's PIN of 466-03-00-154, and the GIS and Assessor's records of Charleston County, the correct address of the Property is 1959 Jacksonville Road. Accordingly, the case caption and all prior pleadings are hereby amended *nunc pro tunc* to reflect the correct address of 1959 Jacksonville Road, pursuant to Rules 15(a), (b), (c), and (d) SCRCF.

The Tax Sale and Tax Deed

Plaintiff purchased the Property for \$88,000.00 at the Charleston County tax sale held on November 16, 2020 (the "Tax Sale"). After the expiration of the redemption period following the Tax Sale, Charleston County conveyed the Property to Plaintiff by tax deed dated March 18, 2022,

and recorded on April 7, 2022, in the Charleston County Register of Deeds Office (the “ROD”) in Deed Book 1098, page 183 (the “Tax Deed”). A copy of the Tax Deed was entered into evidence as Exhibit 1.

Procedural History and Relevant Title History

On August 3, 2022, Plaintiff commenced this action by filing its Summons, Complaint, and Notice of Lis Pendens (collectively, the “Pleadings”).

By deed dated and recorded on April 20, 1981, in the Charleston County Register of Deeds Office (the “ROD”) in Book E125, page 36, Lucreita D. Lucado conveyed to Mary A. White two parcels of real property, one of which was the Property. As stated on the second page of this deed, the purpose of the deed was “to put on record in the [ROD] the fact that the [conveyed property] has a clear title as of March 31, 1981, Mary A. White et al. v. Monday Green et al., Court of Common Pleas, Charleston County, Case No. 79-CP-10-2289”. A copy of this deed was entered into evidence as Exhibit 2.

As noted in the letter referenced below, it appears that Mary A. White died in 1997, but Plaintiff did not find her obituary, a record of her estate being probated in Charleston County, or a deed of distribution for the Property. Accordingly, Plaintiff named the following as parties because they may claim to have some interest in the Property: Defendants the Estate of Mary A. White; Heirs-at-Law of Mary A. White; unknown Heirs-at-Law or Devisees of Mary A. White, Deceased; their Heirs, Personal Representatives, Administrators, Successors, and Assigns, and all other persons entitled to claim through them; all unknown owners, unknown heirs or unknown devisees of any deceased person, or by any such designation (collectively, the “Estate”). Through the Tax Sale proceedings and this action, all interests that the Estate had or may claim to have in, to, or upon the Property have been eliminated.

Prior to filing this action, Plaintiff received a letter dated April 5, 2022, from DeWayne Sykes stating as follows:

This letter is to notify you that Mary A White is a Life Estate holder of a [sic] assignment on property located at 1953 Jacksonville Rd, North Charleston, SC Charleston County, South Carolina from the last will and testament of Frank White Sr. Mary A. White died in the year of 1997 at the time of her death the life Estate ended. 11/16/20 is 23 years after the ending of the life estate. Also PINE VALLEY ONE REAL ESTATE, LLC did not exist in The state of South Carolina until the day of 03/14/2022 it could not have done business in South Carolina in 11/16/2020.

Tax sale under execution issued against one who is not the owner of the land is void. *Donohue v. Ward*, 298 S.C. 75, 378 S.E.2d 261 (Ct.App.1989).

A copy of this letter was entered into evidence as Exhibit 4.

The Court finds that Mr. Sykes did not challenge Plaintiff's title to the Property, which has an address of 1959 Jacksonville Road, because Mr. Sykes' letter references property located at 1953 Jacksonville Road. Based on the GIS records of Charleston County, the Property is adjacent to 1953 Jacksonville Road. Additionally, Plaintiff's title search did not find that DeWayne Sykes holds an interest of record in the Property, and Plaintiff's title search and the Tax Collector's office did not find any records showing that Mary A. White held a life estate interest in the Property.

Pursuant to the Order Appointing Guardian Ad Litem Nisi and Order for Service by Publication filed on August 9, 2022, Kelley Y. Woody, Esq. was appointed Guardian Ad Litem Nisi for the Estate and John Doe and Mary Roe as fictitious defendants to represent the interests of any unknown persons or entities claiming any right, title, interest, estate in, or lien upon the Property (collectively, the "Estate and the Doe Defendants").

Service of the Pleadings and Status of the Defendants

Pursuant to the Order Appointing Guardian Ad Litem Nisi and Order for Service by Publication filed on August 9, 2022, Plaintiff served the Estate and the Doe Defendants by

publication in The Post and Courier on August 12, August 19, and August 26, 2022, as evidenced by the Affidavit of Publication filed on September 12, 2022. The Estate and the Doe Defendants timely served and filed their Answer, Consent to Reference, and Consent for Video/Teleconference Hearing on August 11, 2022, but they did not challenge the Tax Sale.

On December 20, 2022, Plaintiff served and filed the Notice of the Hearing upon the defendants, as evidenced by the Certificate of Service filed the same day. None of the defendants attended the hearing personally, through counsel, or through any other representatives.

Evidence Presented at the Hearing

No parties appeared in objection to or opposed Plaintiff's action to quiet its tax title. No objection being made to Plaintiff's action to quiet its tax title, the Court accepted the allegations of the Complaint as set forth therein and reaffirmed at the hearing.

In support of its claims, Plaintiff included an affidavit from Edrian Trakas, the Charleston County Tax Collector (the "Tax Collector"). In his affidavit, the Tax Collector testified, without objection, that all notices of delinquent taxes, the execution, levy, posting, advertisements, tax sale, and notices of redemption sent to the 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. A copy of the Tax Collector's affidavit was entered into evidence as Exhibit 3.

No other witnesses were called to testify by Plaintiff and none appeared on behalf of any other interested party. All exhibits offered by Plaintiff into evidence were admitted into evidence without objection.

CONCLUSIONS OF LAW

Based upon the Pleadings, motions, and orders filed, the testimony and evidence presented, and the arguments of counsel at the merits hearing, I make the following conclusions of law:

1. Any finding of fact stated above that is also a conclusion of law is incorporated herein by reference.

2. This matter is properly before the Court. Notice of the hearing was properly given to all defendants, and the Court has personal jurisdiction over all defendants. Further, this matter is within the subject matter jurisdiction of this Court, having been properly referred for the purpose of taking testimony, receiving evidence, and making findings of fact and conclusions of law with respect to all issues with the authority and power to enter a final judgment in this cause, with any appeal to the Court of Appeals of South Carolina.

3. Mary A. White was the last record owner of the Property prior to the Tax Sale and held good, fee simple title to the Property.

4. In strict accordance with all statutory requirements, the Tax Collector provided all required notices to all interested parties entitled to notice, properly executed and levied upon the Property, and thereafter properly advertised and sold the Property at the Tax Sale.

5. After providing the statutorily required notice of the approaching end of the redemption period to all interested parties entitled to notice in strict compliance with S.C. Code Ann. § 12-51-120, the Tax Collector conveyed the Property to Plaintiff through the Tax Deed.

6. Plaintiff timely and properly served the Pleadings by publication, as evidenced by the affidavit of publication filed herein.

7. After being timely and properly served, the Estate and the Doe Defendants timely served and filed their answer, but these defendants did not challenge the Tax Sale of the Property.

8. At all times concerned, the provisions of Chapter 51 of Title 12 of the South Carolina Code of Laws entitled, "Alternative Procedure for Collection of Property Taxes," controlled. At the hearing, no issues were raised concerning the actions of the Tax Collector, and based upon the testimony of Edrian Trakas and the other evidenced received, I find that all requirements of the South Carolina Code of Laws with regard to the Tax Sale of the Property were properly followed and were in strict compliance therewith.

9. Because the Tax Sale of the Property was conducted in strict compliance with the statutory requirements pertaining to tax sales and no party has challenged the Tax Sale of the Property, all rights, titles, claims, interests, estates, liens, mortgages, judgments, and any other creditors' claims of any of the defendants in, to, or upon the Property were extinguished by the Tax Sale. Accordingly, all rights, titles, claims, interests, estates, liens, mortgages, judgments, and any other creditors' claims that any of the defendants had or claims to have in, to, or upon the Property are hereby extinguished, and all rights, titles, claims, interests, estates, liens, mortgages, judgments, and any other creditors' claims of any person or entity claiming under, by, or through any of the defendants in, to, or upon the Property are hereby extinguished. Thus, all adverse claims to the Property are forever barred, and Plaintiff's marketable, fee simple title to the Property is certain and free from all reasonable doubt.

10. Additionally, Plaintiff's tax title is incontestable on procedural or other grounds and all claims against or challenges to the Tax Sale of the Property are barred by the two-year

statute of limitations set forth in S.C. Code Ann. §§ 12-51-90(c) and 160, because more than two have passed since the date of the Tax Sale.

11. Any party occupying the Property must vacate the Property and remove all items of personal property as set forth below, and any party occupying the Property shall maintain the condition of the Property without causing any harm or damage to the Property.

NOW, THEREFORE, based upon the foregoing, it is hereby ordered as follows:

1. All claims, rights, titles, interests, estates, liens, mortgages, judgments, and any other creditors' claims of any of the defendants in, to, or upon the Property are forever barred, including, but not limited to, the prior ownership interests of the Estate.

2. All claims, rights, titles, interests, estates, liens, mortgages, judgments, and any other creditors' claims of any other person or entity claiming under, by, or through any of the defendants in, to, or upon the Property are forever barred.

3. The Tax Sale extinguished all rights, titles, claims, interests, estates, liens, mortgages, judgments, and other creditors' claims in, to, or upon the Property, and all claims to the Property adverse to Plaintiff are forever barred.

4. The two-year statute of limitations of S.C. Code Ann. §§ 12-51-90(c) and 160 render Plaintiff's tax title incontestable and bar any and all post, present, and future claims concerning the Tax Sale of the Property.

5. This Court hereby quiets and confirms marketable, fee simple title to the Property in Plaintiff, PVone REO, LLC, and the marketable, fee simple title of Plaintiff, PVone REO, LLC, to the Property is certain and free from all reasonable doubt.

6. In the event that any party is occupying the Property, Plaintiff shall provide a copy of this Final Order to the Charleston County Sheriff or his authorized deputies (collectively

the “Sheriff”), and upon receipt of a copy of this Final Order, the Sheriff is hereby ordered to perform as follows:

a. The Sheriff is hereby ordered, directed, and authorized to post a copy of this Final Order and/or to serve a copy of this Final Order upon any persons occupying the Property;

b. Not less than 15 days after said posting or service, the Sheriff shall be authorized to enter upon the Property, by force if necessary, and to seize the Property and to any persons occupying the Property from the Property, together with all of his/her/their personal property and possessions, and to put Plaintiff in full, peaceful and quiet possession of the Property without delay, and thereafter, within ten (10) days, make due Return to the Clerk of Court for Charleston County, South Carolina, showing how this Final Order has been executed; and

c. The Sheriff shall have discretion to extend the date of seizure, but not more than 30 days from the date of said service or posting, absent a further Order.

AND IT IS SO ORDERED.

JUDGE’S SIGNATURE PAGE TO FOLLOW