

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SPARTANBURG COUNTY
COURT OF COMMON PLEAS

THE HONORABLE SHANNON M. PHILLIPS
CASE NO. 2022-CP-42-2073
APPELLANT CASE NO.: 2024-000032

Edgar Mora Romero and Upstate House Projects, LLC

Appellants,

versus

Nathan T. Rosemond,

Respondent

APPELLANTS' FINAL REPLY BRIEF

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April 10, 2024

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SC Court of Appeals

The Appellant is not attacking the general law which relates to Tax Sales. Our Courts have consistently preserved the right of a property owner to have proper notice of a tax delinquency. The Appellant's argument is that the case law surrounding Tax Sales should not apply to the case at bar.

It is respectfully submitted that the "totality of circumstances" and the specific facts which surround this case, mandate that a strict application of the General Tax Sale Law not be applied.

A summary of the pertinent facts of this case are:

- Three (3) months prior to the Respondent's taking title to the property, his family was given notice that the taxes on Lot 13 had not been paid.
- Twelve (12) months after the Respondent received title to the property, a For Sale sign was posted on Lot 13.
- The family of the Respondent was given notice of the proposed Tax Sale when Lot 13 was posted.
- In November 1996, Milton Antonakos purchased the property at the Tax Sale.
- Milton Antonakos paid the taxes on Lot 13 for the years 1994 through 2014.
- In December 2014, the Milton Antonakos Estate sold Lot 13; a For Sale sign was again posted on Lot 13.
- Prior to the sale in December 2014, the Respondent was mailed notice from the auctioneer that Lot 13 was to be sold. [The Respondent did not deny receiving this notice.]
- In January 2015, the Appellant purchased the subject property; the Appellant paid the taxes on Lot 13 for the years 2015 through 2023.
- The Respondent's reason for not paying the taxes on Lot 13 was that he thought there was only one tax notice; however, in 2022, when the subject action was brought, the Respondent had documented notice that Lots 12 and 13 were taxed separately; notwithstanding, the Respondent did not pay or offer to pay, the taxes for the years 2022 and 2023.

It is respectfully submitted that the rigid rules which governs Tax Sales must be balanced with:

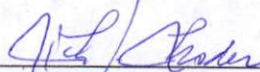
- (a) The duty of a property owner to be diligent and to pay taxes on his property; and
- (b) The right of a person who purchases property and who pays the taxes, to be protected against prior owners.

In 1995, the Delinquent Tax Office conducted a Tax Sale properly against the Gideons. However, notice was not given to the Respondent who purchased the property three (3) months after the first delinquent notice was sent. This was clearly in error. However, twenty-eight (28) years have now passed. During this span of time, two (2) individuals have purchased the lot, and have paid the taxes. The passage of time changes everything. Our system of juris prudence has always recognized statutes of repose. A person's legal right will be forfeited if too much passes.

How long can a person use an imperfect Tax Sale as an absolute right to retain ownership? In this case, the Respondent's family had proper notice of the sale; the Respondent chose to purchase the property without a title search, and the Respondent ignored two (2) For Sale signs on Lot 13. The actions of the Respondent are one of indifference, and he failed to exercise his diligence which a property owner must exercise.

For these reasons, it is respectfully submitted that the Appellant should be the owner of the subject Lot 13.

Respectfully submitted,

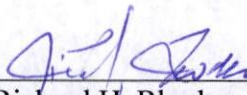


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CERTIFICATE OF COUNSEL

This is to certify that the Appellants' Final Reply Brief complies with the South Carolina Appellate Court Rule 211(b).



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Date: April 10, 2024