

the complaint.” *Doe v. Marion*, 373 S.C. 390, 395, 645 S.E.2d 245, 247 (2007) (citation omitted). “The question is whether, in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief.” *Id.* at 395, 645 S.E.2d at 247–48 (quoting *Gentry v. Yonce*, 337 S.C. 1, 5, 522 S.E.2d 137, 139 (1999)). The proper procedure for raising lack of jurisdiction is to file a motion to dismiss. *Woodard v. Westvaco Corp.*, 319 S.C. 240, 450 S.E.2d 392 (1995).

DISCUSSION

Plaintiff, among others not named as parties here, is the former owner of property located at 106 Curly Lane Ladson South Carolina in Berkeley County by virtue of a 1994 deed of distribution from the Estate of Lillian Wells recorded in the Office of the Register of Deeds for Berkeley County in Book 583 at Page 175, of which this Court takes judicial notice. On November 6, 2023, the Berkeley County Delinquent Tax Collector sold the property at auction for payment of the 2022 property taxes. Defendant Escape Rentals was the successful bidder at auction. After the end of the statutory redemption period on November 7, 2024, the Delinquent Tax Collector issued a deed to Defendant dated March 20, 2025 and recorded in the Office of the Register of Deeds for Berkeley County in Book 5152 at Page 116, of which this Court takes judicial notice. Subsequently, Defendant instituted ejectment proceedings which were appealed to this court by Plaintiff as Case Number 2025-CP-08-02626, of which this Court also takes judicial notice. Plaintiff then instituted this action against Escape Rentals, LLC seeking to set aside the tax sale and for a “stay of legal proceedings.”

"Subject matter jurisdiction is the power to hear and determine cases of the general class to which the proceedings in question belong." *Dema v. Tenet Physician Services-Hilton Head, Inc.*, 383 S.C. 115, 120, 678 S.E.2d 430, 433 (2009). The jurisdiction of a court over the subject

matter of a proceeding is determined by the Constitution and the laws of the state. *Duckett v. Goforth*, 374 S.C. 446, 456, 649 S.E.2d 72, 77 (Ct.App.2007). “The sale of the property of a defaulting taxpayer is governed by statute.” *Key Corporate Capital Inc., v. County of Beaufort*, 373 S.C. 55, 59, 644 S.E.2d 675, 677 (2007). Title 12, Chapter 51 provides for the public sale of property for payment of delinquent taxes. S.C. Code Ann. 12-51-40 et seq. “If the defaulting taxpayer, grantee from the owner, or mortgage or judgment creditor fails to redeem the item of real estate sold at the delinquent tax sale within the twelve months provided in subsection (A) and after the passing of an additional twelve months, the tax deed issued is incontestable on procedural or other grounds.” S.C. Code § 12-51-90. “An action for the recovery of land sold pursuant to this chapter or for the recovery of the possession must not be maintained unless brought within two years from the date of sale as provided in Section 12-51-90(C).” S.C. Code § 12-51-160. “[T]he purpose of the statute of limitations as set forth in section 12-51-160 is “to create a time limit during which one who lost title to property through a tax sale, after proper notice, may attempt to regain title.” *King v. James*, 388 S.C. 16, 26, 694 S.E.2d 35, 40 (Ct. App. 2010) (quoting *Corbin v. Carlin*, 366 S.C. 187, 194, 620 S.E.2d 745, 749 (Ct. App.2005)).

Here, the delinquent tax sale was conducted on November 6, 2023 and the redemption period expired twelve months later, on November 6, 2024. Accordingly, an action to set aside the tax sale must have been brought no later than November 6, 2025. After this date, Section 12-51-90 mandates that the tax deed is incontestable. Plaintiff’s complaint was filed on December 31, 2025, fifty-five days after the end of the period dictated by Section 12-51-90. Therefore, Section 12-51-160 requires that Plaintiff’s action be dismissed. Therefore, this Court finds that this Court lacks jurisdiction over the subject matter at issue in Plaintiff’s Complaint pursuant to S.C. Code Ann. §§ 12-51-90(C) and 12-51-160. Plaintiff’s Complaint must be dismissed.

A motion under Rule 12(b)(7) is proper where a necessary party under Rule 19 should be joined for a just adjudication of the issues. *BancOhio Nat'l Bank v. Neville*, 310 S.C. 323, 326, 426 S.E.2d 773, 775 (1993). "The rule provides an affirmative defense for the failure to join any interested party who is subject to service of process, and who will not deprive the court of jurisdiction over the subject matter under Rule 19, SCRCP." Rule 19, SCRCP provides, *inter alia*, "(a) Persons to be joined if Feasible. A person ... shall be joined as a party in the action if (1) in his absence complete relief cannot be accorded among those already parties, or (2) he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (i) as a practical matter impair or impede his ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest." The burden is on the pleader (the Plaintiff here), to justify any reasons for nonjoinder. "There is nothing in the rules which shifts the burden onto the defending party to either add or identify, for the plaintiff, other parties which are indispensable." *BancOhio Nat. Bank v. Neville*, 310 S.C. 323, 327, 426 S.E.2d 773, 776 (1992). Defendant argues that if the other defaulting taxpayers with Plaintiff were not joined, Defendant would be subject to multiple or duplicative actions by those individuals regarding this property. Further, a ruling as to Plaintiff's interest does not bind the other defaulting taxpayers who were previously Plaintiff's co-owners. Their proprietary interests in the property are otherwise unrepresented. Thus, they are necessary parties whose interests would be impaired by their absence. Defendant further argues that any order would not be binding on the County, whose statutory duties include conducting the delinquent tax sale at issue. Thus, the County is an indispensable party who must be joined in this action. However, because the analysis regarding

Defendant's jurisdictional argument is dispositive, the Court declines to order that Plaintiff's other former co-owners or the Delinquent Tax Collector be joined as parties.

CONCLUSION

For the foregoing reasons, Defendant's motion is GRANTED, and Plaintiff's Complaint is DISMISSED.

AND IT IS SO ORDERED.

[JUDICIAL SIGNATURE ON FOLLOWING PAGE]



Berkeley Common Pleas

Case Caption: Patricia Green VS Escape Rentals LLC

Case Number: 2025CP0804181

Type: Order/Dismissal

So Ordered

s/Christopher D. Taylor (#2795)