

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHEROKEE)
)
 Brenda Halsey, Bernay F. Halsey, Jr.,)
 Demont Halsey, Fredericka Halsey, and)
 Brittany Halsey,)
)
 Plaintiffs,)
)
 vs.)
)
 Gwendollette Halsey Simmons, Kenneth)
 Wayne Oglesby, Roderick Terrill Oglesby,)
 any heirs of the Rederick Gaffney Estate,)
 known and unknown, who may claim any)
 interest in the subject property, and any)
 unknown heirs or parties who may claim)
 title or ownership in the real estate which is)
 the subject of this action, Elijah Redish,)
 Jackie W. Williams, as Cherokee County)
 Treasurer, or the Successor in Office,)
 Vernon L. Price, as Delinquent Tax)
 Collector of Cherokee County, or the)
 Successor in Office,)
)
 Defendants.)
)

IN THE COURT OF COMMON PLEAS
7TH JUDICIAL CIRCUIT

FINAL ORDER

Case No. 2015-CP-11-0319

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JUL 03 2017

SC Court of Appeals

This matter came before me pursuant to an Order Appointing Neutral, pursuant to Rule 3 of the Rules for Circuit Court, consented to by Plaintiffs' attorney Richard H. Rhodes, Defendants' attorney Joseph L. Mathis, who represented the Cherokee County Delinquent Tax Collector, attorney George Brandt, III who represented Defendant Elijah Redish, and attorney Anna Karina Parker who represented Defendant Gwendollette Halsey Simmons (now Dawkins). All other Defendants were in default and were not represented by counsel. A hearing was held on March 22, 2017, and the parties and their respective attorneys were present at the hearing. I find that this Court has jurisdiction over the parties and the subject matter of this action.

This action was commenced by the filing of a Summons and Complaint by the Plaintiffs



alleging that the Plaintiffs were the owners of the real property described below. The Defendants Gwendollette Halsey Simmons, Kenneth Wayne Oglesby, Roderick Terrill Oglesby and any other heirs of The Roderick Gaffney Estate were joined to protect any interest they may have in the subject property which is described as follows:

All that certain piece, parcel or lot of land, situate, lying and being in the County of Cherokee, State of South Carolina, fronting on Lead Mine Road, and being more particularly described as follows: BEGINNING at a point on Lead Mine Road approx. 209.4 feet from O'Neal Street; thence S. 87-00 E. Approx. 200 feet to a point; thence N. 3-00 E. Approx. 150 feet to a point; thence N. 87-00 W. Approx 200 feet to a point on Lead Mine Road; thence with Lead Mine Road S. 3-00 W. Approx. 150 feet to the point of beginning. This property is more particularly shown on plat for rank Homer Oglesby, the plat being dated September 13, 1968 and recorded in Deed Book 6-M at Page 280, Register of Deeds for Cherokee County, South Carolina.

Block Map No. 100-08-00-055.003

The above described property was sold at the Cherokee County Delinquent Tax Sale, pursuant to § 12-51-40 through § 12-51-70, Code of Laws of South Carolina, 1976 as amended, for failure to pay the property taxes due on the property for the years 2008 through 2013. The property was conveyed to Defendant Elijah Redish, as shown by Tax Deed from Vernon L. Price, Delinquent Tax Collector for Cherokee County, that was recorded on November 17, 2014 in Volume 72 at pages 2650-2652, Clerk of Court's Office for Cherokee County, South Carolina. Subsequent to this recording, a Corrective Deed was issued and recorded in Deed Book 76 at Page 2157-2159, which corrected the property description to the subject property after a survey was found to give the proper description.

The present action was filed on April 15, 2015 seeking to declare that the Plaintiffs were the owners of the property in question and that the Court should rescind the Tax Deed for failure to comply with the statutory requirements above referenced.

Mr. Vernon L. Price, Delinquent Tax Collector for Cherokee County, testified. Defendant's

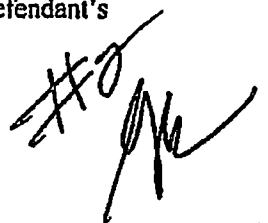
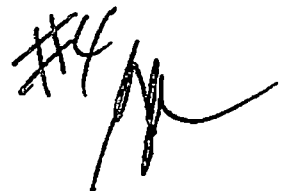


Exhibit 1 was introduced into evidence, which was an aerial photograph of the subject property and adjacent tax map parcel containing 6.41 acres, Tax Map No. 100-08-00-055.000, which was also owned by the Plaintiffs and Defendants who were the heirs of the Rederick Gaffney Estate, and was designated at the hearing as "the trailer park property". Mr. Price testified that the property that was the subject matter of this action had a Tax Map No. Of 100-08-00-055.003 and was located at 305 Leadmine Street in Cherokee County, South Carolina. Mr. Price identified and introduced into evidence Defendant's Exhibit 2, which was the file from the Delinquent Tax Office for Cherokee County. This file contained an Execution Tax Notice for failure to pay taxes on the subject property and it was sent to the Rederick Gaffney Estate c/o Gwendolette Dawkins, 135 Iris Lane, Gaffney, SC 29341, which was the address shown on the Tax Receipt. This document was dated March 19, 2013 and received, according to the Return Receipt for Certified Mail, by Gwendolette Dawkins on June 8, 2013. Mr. Price testified that a Notice of Levy, dated August 7, 2013, was placed on the property at 305 Leadmine Street in Cherokee County, South Carolina by him, and a photograph of the Notice of Levy was attached indicating that the property would be sold at the Tax Sale on November 4, 2013 for failure to pay taxes. Mr. Price testified that a Notification, dated November 13, 2013 and addressed to "Gaffney Rederick Estate" c/o Gwendolette Dawkins, 135 Iris Lane, Gaffney, SC 29341, was sent notifying her that the property had been sold on November 4, 2013 to pay back taxes, and that the final redemption date was November 5, 2014. A Delinquent Tax Sale Notice, dated October 13, 2014, was sent by Certified Mail Return Receipt Requested to Brenda Halsey, 305 Leadmine Street, Gaffney, SC 29340, and Gwendolette Dawkins, 135 Iris Lane, Gaffney, SC 29341. Ms. Halsey received her Delinquent Tax Sale Notice on October 18, 2014, and Gwendolette Dawkins received her Delinquent Tax Sale Notice on October 15, 2014. Also contained in the Delinquent Tax Office file were the required newspaper Legal Notices of

Delinquent Tax Sale for the State of South Carolina, Cherokee County, advertising the property located at 305 Leadmine St., Tax Map No. 100-08-00-055.003, would be sold for delinquent taxes on November 4, 2013. Mr. Price testified that, in addition to the notifications required by statute, he had extensive conversations with Plaintiff Brenda Halsey prior to the sale of the property when Ms. Halsey came to the Tax Office to pay the taxes on Parcel Tax Map No. 100-08-00-055.000. Proof of payment which was introduced into evidence as Defendant's Exhibit 3, showing payment of \$10,002.15 on the taxes due and payable on this property which was the trailer park property. Mr. Price testified that, after sending out the above referenced appropriate notices, the posting of the property and publishing the appropriate newspaper notices, all as required by statute, the taxes were not paid by anyone, nor were any inquiries made about the tax bills, the taxes owed or anything referencing the impending sale of the property.

Mr. Price testified that the taxes were not paid and a Deed to Defendant Elijah Redish was issued and recorded in Deed Book 72 at Page 2650 and, subsequent to this recording, a Corrective Deed was issued and recorded in Deed Book 76 at Page 2157-2159, which corrected the property description to the subject property after a survey was found to give the proper description. This Corrective Deed was introduced as Plaintiff's Exhibit 11.

Plaintiff introduced Exhibits 1, 2, 3, 4, 5, 6, 7 and 8, which are records from the Cherokee County Assessor's Office and tax receipts referencing Bernice Frederick Halsey as recipient of the tax bill on the adjacent trailer park property, Tax Map No. 100-08-00-056.000, which were not related to the sale of the property in question in this matter. Plaintiff introduced Plaintiff's Exhibit 9, which contained tax bills for the years 2004 and 2005, and checks made payable by Brenda Halsey to pay those taxes on the subject property, Tax Map No. 100-08-00-055.003. It should be noted that these tax bills were addressed to the addressee provided to the Tax Collect, Rederick Gaffney Estate,



Gwendollette Dawkins, 135 Iris Lane, Gaffney, SC 29341, which is the same address to which the tax notices were sent for the years for which the property was sold at the tax sale of the subject property. Plaintiffs introduced Exhibit 10, which is a record from the Delinquent Tax Search, dated May 31, 2011, which referenced Brenda Halsey as the recipient of the tax bill for the subject property at 305 Leadmine Street, Tax Map No. 100-08-00-055.003. Plaintiff's Exhibit 12 was also introduced which was the payment for the tax years 2014, 2015 and 2016 on the subject property at 305 Leadmine Street, which were paid by the Defendant, Elijah Redish, who had received the property at the tax sale.

At the conclusion of the testimony of Mr. Price, Mr. Brandt made a Motion for a Directed Verdict for the Court to determine that the Delinquent Tax Collector had strictly complied with the statutory requirements regarding the sale of the property for failure to pay the taxes in a timely, and to declare that Elijah Redish is the fee simple owner of the subject property. Plaintiffs' counsel opposed the Motion due to the fact that his client was unable to testify and present evidence other than that which was introduced through Mr. Price, as previously stated. However, the threshold question before this Court before Plaintiffs' testimony should be taken was the question of whether the tax sale of the property and the issuance of the Deed to Defendant Elijah Redish was done in strict compliance with §12-51-40 through §12-51-170, Code of Laws of South Carolina, 1976 as amended. I find that the Delinquent Tax Collector strictly complied with the requirements of §12-51-40 through §12-51-170, Code of Laws of South Carolina, 1976 as amended. I further find that the Delinquent Tax Collector forwarded the appropriate Notices to the address provided to him on previous tax notices regarding the subject property and, additionally, notified the Defendant Gwendollette Dawkins and Plaintiff Bernay Halsey that the property had been sold at the tax sale and that the redemption period would end on November 5, 2014 and a Deed would be issued to the

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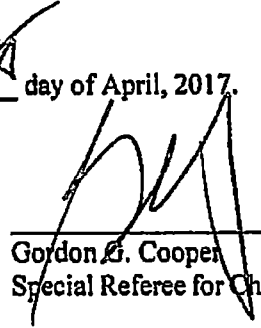
successful bidder at the tax sale, all in compliance with the above referenced statutes.

I, therefore, confirm that the Deed and Corrective Deed to Defendant Elijah Redish was properly issued and recorded and that Elijah Redish is the fee simple owner of the subject property.

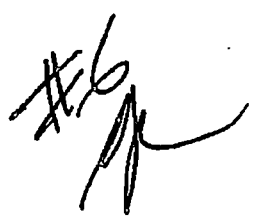
NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that Elijah Redish is hereby determined to be the fee simple owner of the property described above and in the Deeds issued to him referenced above.

IT IS, FURTHER, ORDERED, ADJUDGED AND DECREED that Plaintiffs' Complaint is hereby dismissed.

IT IS, SO, ORDERED on this 6th day of April, 2017.



Gordon E. Cooper
Special Referee for Cherokee County, South Carolina



STATE OF SOUTH CAROLINA)
)
COUNTY OF CHEROKEE)

IN THE COURT OF COMMON PLEAS
7TH JUDICIAL CIRCUIT

Brenda Halsey, Bernay F. Halsey, Jr.,)
Demont Halsey, Fredericka Halsey, and)
Brittany Halsey,)

Plaintiffs,)

SUPPLEMENTAL ORDER

vs.)

Case No. 2015-CP-11-0319

Gwendollette Halsey Simmons, Kenneth)
Wayne Oglesby, Roderick Terrill Oglesby,)
any heirs of the Roderick Gaffney Estate,)
known and unknown, who may claim any)
interest in the subject property, and any)
unknown heirs or parties who may claim)
title or ownership in the real estate which is)
the subject of this action, Elijah Redish,)
Jackie W. Williams, as Cherokee County)
Treasurer, or the Successor in Office,)
Vernon L. Price, as Delinquent Tax)
Collector of Cherokee County, or the)
Successor in Office,)

Defendants.)

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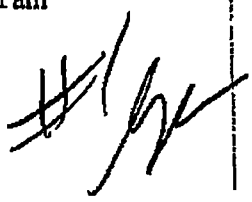
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SC Court of Appeals

FILED IN THE OFFICE
CLERK OF COURT
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CHEROKEE COUNTY, SC

This cause came before me pursuant to a Motion filed by the Plaintiff Brenda Halsey, seeking to alter and/or amend the Final Order of this Court, dated and filed April 6, 2017, in this matter, pursuant to Rule 59(E) of the South Carolina Rules of Civil Procedure. A hearing was held on May 31, 2017. Richard H. Rhodes was present representing Plaintiff in the matter, George Brandt, III was present represented Defendant Elijah Redish, Anna Karina Parker was present representing Defendant Gwendollette Halsey Simmons, and Joseph L. Mathis was present representing Cherokee County Treasurer and the Delinquent Tax Collector for Cherokee County.

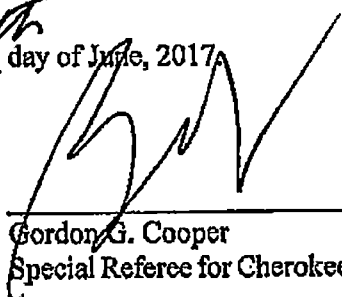
After review of the documents filed by the Plaintiff, along with the Motion to Alter and/or Amend the Judgment, and hearing arguments of Plaintiff's attorney and Defendants' attorneys, I am



still of the opinion that the Delinquent Tax Collector for Cherokee County complied with §12-51-40 through §12-51-170, Code of Laws of South Carolina 1976, as amended, and gave proper notice to the Plaintiff and others who had an interest in the property, and that the tax sale of the property to Defendant Elijah Redish should be confirmed and, therefore, the Motion to Alter and/or Amend Judgment filed by the Plaintiff is, hereby, denied.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the Motion to Alter and/or Amend Judgment filed by the Plaintiff is denied.

IT IS, SO, ORDERED on this 19th day of June, 2017.



Gordon G. Cooper
Special Referee for Cherokee County, South Carolina

