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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable R. Markley Dennis, Jr., Circuit Court Judge

Appellate Case No. 2015-002257

Equivest Financial, LLC,.....Respondent,

v.

Mary B. Ravenel and AAA Plumbing, Inc.,
Defendants,

Of Whom Mary B. Ravenel is the.....Appellant,

PETITION FOR WRIT OF CERTIORARI

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(***Mary B. Ravenel***)

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PETITION FOR A WRIT OF CERTIORARI

Mary Ravenel. respectfully petitions for a Writ of Certiorari to review the judgment of the South Carolina Court of Appeals.

OPINION BELOW

The opinion of the South Carolina Court of Appeals (Opinion No. Op. 5536) is reproduced as Appendix to this Petition (App. pp. 2-10).

STATEMENT OF THE CASE

On November 3, 2008, a tax sale was held whereby Equifunding, Inc. purchased the subject property, known by TMS No. 099-00-00-085. Equifunding, Inc. received a tax deed from the Delinquent Tax Collector for Charleston County, which was recorded August 11, 2010.

Equivest ("Respondent") received a deed from Equifunding, Inc. recorded October 4, 2010 in the Office of the RMC for Charleston County. (App. p. 80)

Thereafter, a lawsuit ensued whereby Lashanda Ravenel and Henry Lee Ravenel, II, as the grantees of the record at the time, brought suit against the Respondent to set aside the tax sale. By Order dated May 30, 2010 and recorded June 5, 2012, the Master-in-Equity for Charleston County found that the deed transferring the subject property from Mary B. Ravenel ("Appellant") to the Lashanda Ravenel and Henry Lee Ravenel, II, as grantees, was not delivered and not effective, and quieted title in the Respondent. The case was then appealed to this Honorable Court. By Opinion No. 2013-UP-495 filed December 23, 2013, this Honorable Court affirmed the Master's ruling that there was no delivery and the deed was not effective, but did not rule on the other issues presented on appeal.

Thereafter, on February 3, 2014, Respondent brought an action against the Appellant to quiet title on the subject property.

A Motion for Summary Judgement was heard before the Honorable J.C. Nicholson, Jr. on June 8, 2015. The attorneys were informed that the Motion for Summary Judgement would be denied, but the Order denying the Motion Summary Judgement was not entered at the entered at the time of the filing of this brief.

On June 11, 2015, the case was heard before the Honorable R. Markley Dennis, Jr. By Order dated July 23, 2015 and filed July 27, 2015, the Trial Court quieted title in the name of the Respondent.

A Motion to Reconsider was timely filed by the Appellant on August 10, 2015 and an Order denying the Motion to Reconsider was filed on September 29, 2015.

Appellant, by and through her attorney, served the Notice of Appeal dated October 28, 2015 and filed October 29, 2015 on Equivest Financial, LLC. All documents set forth above will be included in the Record on Appeal contained in the Appendix (App. pp. 63 -160).

The South Carolina Court of Appeals decided this case on February 14, 2018, reference Opinion No. Op. 5536 (App. pp. 2-10) affirming the decision of the lower court; and denied Mary Ravenel's Petition for Rehearing by Order dated April 26, 2018 (App. p. 1).

STATEMENT OF FACTS

In 2001, Mary B. Ravenel purchased five (5) parcels ofland, including the subject property, with monies she received from a settlement. (App. pp. 80,82) On one of said parcels, Mrs. Ravenel later built a home, which serves as her primary residence. The lot which is the subject matter of this appeal is the lot containing Mrs. Ravenel's home. Id. By instrument dated and recorded November 6, 2007 inBookH-643 atPage159 in the RMC for Charleston County, Mrs. Ravenel conveyed the five (5) parcels to her children, Lashanda Ravenel and Henry Lee Ravenel, II. (App. pp. 113-117). The grantees, however, were never made aware of the conveyance. (App. p. 81)

By tax sale on November 3, 2008, the subject property was sold for nonpayment of the 2007 taxes. (App. p. 69) While all five (5) parcels were listed for sale, the only property sold was the one containing Mrs. Ravenel' s home.

The property was purchased by Equifunding, Inc., who thereafter conveyed the property to the Respondent. (App. pp. 80, 141). Thereafter, Lashanda Ravenel and Henry Lee Ravenel, II brought suit seeking to set aside the tax sale. (App. p. 79) However, Mrs. Ravenel , was not a party to this action.

In the previous action, the Master-in-Equity determined that the deed from Mrs. Ravenel conveying her five parcels ofland to her children, Lashanda Raveneland Henry Lee Ravenel, II, was never delivered to them, and therefore the deed was not effective. (App. p. 84) Subsequently, the Court of Appeals affirmed the Master's determination that delivery had not occurred. (App. pp. 73-76) Pursuant to these Orders, title to this property never passed to . her children and title remained in Mrs. Ravenel's name. Id. Therefore, the Respondent instituted this action seeking to quiet title against Mary Ravenel.

As a result of the rulings by the Master-in-Equity and the Court of Appeals, it is undisputed that Mary Ravenel was the true owner at the time of the 2008 tax sale and is the owner of the subject property at the present time.

Additionally, it is also undisputed that as of January 1, 2007, the property was listed in the tax records under the name of Mary Ravenel.

STANDARD ON APPEAL

"An action to set aside a tax sale lies in equity." Hawkins and Gryphon, Inc. v. Bruno Yacht Sales, Inc., 342 S.C. 352,358,536 S.E.2d 698 (Ct. App. 2000); Folk v. Thomas, 520 S.E.2d 327,336 S.C. 466 (Ct. App. 1999). In an action in equity, tried by a judge alone; the. appellate court has jurisdiction to find facts in accordance with its own view of the preponderance of evidence. Townes Associates, Ltd. v. City of Greenville, 266 S.C. 81,221 S.E.2d 773 (1976); Doe v. Clark, 318 S.C. 274,457 S.E.2d 336 (1995).

REASONS FOR GRANTING THE WRIT

I. THE COURT OF APPEALS FAILED TO CONSIDER THAT THE TRIAL COURT ERRED WHEN IT FAILED TO TAKE TESTIMONY WHEN THERE WERE GENUINE ISSUES OF MATERIAL FACT AND WHEN IT MADE FINDINGS OF FACT THAT WERE UNSUPPORTED BY THE RECORD.

The Trial Court failed to take any testimony in this matter even though there were genuine issues of material fact that needed to be addressed and the Trial Court made findings in its Order that were unsupported by any testimony or evidence. At the hearing, the Trial Court failed to hear any testimony in this matter. (App. pp. 96-112) The reason for the Judge's decision not to hear testimony appeared to be that he did not believe there to be any material issue of fact to be argued before him. (App. p. 103 lines, 16-18; p. 106, lines 8-24; p. 109, lines 19-21) However, a Motion for Summary Judgment had been heard by Judge Nicholson on June 8, 2015, and Judge Nicholson informed the attorneys that the Motion for Summary Judgment would be denied. Denial of a motion for summary judgment is appropriate where "where further inquiry into the facts of the case is desirable to clarify the application of the law." Lord v. D&J Enters., Inc., 407 S.C. 544, 553, 757 S.E.2d 695,699 (2014). By denying the Motion for Summary Judgment, Judge Nicholson indicated that further inquiry into the facts of this case were warranted. As such, one of the key material facts, whether the county notified the defaulting taxpayer, Mrs. Ravenel, of the delinquent taxes and tax

sale in compliance with S.C. Code Ann. § 12-51-40, should have been addressed. However, Appellant's argument on this issue was never fully heard as is evidenced by the lack of testimony taken and the Judge's statements in the transcript. (See App. p. 106, line 8-p. 41, line 1) Furthermore, the Trial Court in its Order found that Mrs. Ravenel "intended to defraud her creditors when she conveyed the subject property to her adult children." (App. p. 71) The Supreme Court of this State has found that "on appeal of a case tried without a jury, the findings of fact of the judge will not be disturbed upon appeal unless found to be without evidence which reasonably supports the judge's findings." Townes Assoc., Ltd. at 86 (*emphasis added*). Here, the record was void of any testimony or evidence presented to support the finding in the Trial Court's Order that Mrs. Ravenel had committed fraud. (App. pp. 96-112) Therefore, the Trial Court erred when it made a finding of fact that Mrs. Ravenel clearly intended to defraud her creditors without any evidence or testimony to support this finding.

II. THE COURT OF APPEALS FAILED TO CONSIDER THAT THE TRIAL COURT ERRED WHEN IT RULED THAT MARY B. RAVENEL WAS BOUND BY THE PREVIOUS COURT ORDER AND THAT JUDICIAL ESTOPPEL APPLIES.

The Trial Court erred when it found that Appellant "is judicially estopped from claiming a position in the instant action, which is different from the position she took in Case No. 2010-CP-10-8732." (App. p. 71) Mrs. Ravenel was not a party to the referenced action and therefore not bound by the action. However, if the Court believes that Mrs. Ravenel was bound by the referenced Order, the Trial Court then erred in finding judicial estoppel applied to 'Mrs. Ravenel as her position did not change.

A finding of judicial estoppel is appropriate in a case "where a party assumes a certain position in a legal proceeding, and succeeds in maintaining that position, ... [and] thereafter, simply

because his interests have changed, assume[s] a contrary position." Hawkins v. Bruno Yacht Sales, 353 S.C. 31, 43,577 S.E.2d 202 (2003) (quoting Zimmerman v. Central Union Bank, 194 S.C. 518, 532, 8 S.E.2d 359,365 (1940)) (*emphasis supplied*). Here, the factual assertion that Mrs. Ravenel viewed herself as the owner of the property did not change and she does not take a position different from the previous action. The Order , from the previous action, Lashanda Ravenel, et al. v. Equivest Fin., LLC, Case No. 2010-CP- 10-8732, states, "Ms. Mary Ravenel clearly regarded all of the properties as hers and testified that the property, was hers." (App. p. 84, line 7) Based oil the foregoing, judicial estoppel does not apply as Mrs. Ravenel's position that the property was hers remained consistent in both actions.

III. THE COURT OF APPLEAL FAILED TO CONSIDER THAT THE PROPERTY WAS NEVER LEVIED, ADVERTISED, AND SOLD IN THE NAME OF THE TRUE OWNER, THE TRIAL COURT ERRED WHEN IT FAILED TO FIND THAT THE TAX SALE WAS VOID.

The Trial Court erred when it failed to find that the tax sale was void for failure of the tax collector to levy, advertise, and sell the property in the name of Mary Ravenel. In Ravenel v. Equivest, Case No. 201O-CP-10-8732, which was later affirmed by this Honorable Court, the Master-in-Equity for Charleston County found the deed for the subject property was not delivered, and pursuant to case law, that"[a] deed is not legally effective until it has been delivered." Donnan v. Mariner, 339 S.C. 621, 626, 529 S.E.2d 754, 757 (Ct. App. 2000). Based on these rulings, it is undisputed in the present case that the true owner of the property at the time of the tax sale was Mrs. Ravenel. Since the tax sale in the instant matter was not levied, advertised, and sold in Mrs. Ravenel's name the tax sale is void on its face.

The statute and case law in this matter are very clear. In order to comply with the statutory requirements for tax sales, the property "shall be listed, assessed, levied upon, advertised, and sold

in the name of the true owner." Rives v. Bulsa, 325 S.C. 287,293,478 S.E.2d 878, 881 (Ct. App. 1996). It has been repeatedly found and stressed by the courts of this state that all conditions governing tax sales are mandatory and strictly enforced. Hawkins, 353 S.C. at 40.

In the case of Osborne v . Vallentine, the taxpayer died and devised the property to the respondents in that case. Osborne v. Vallentine, 196 S.C. 90, 12 S.E.2d 856, 857 (1941). Thereafter, the taxes became delinquent and the property was assessed, levied, and sold in the name of the deceased taxpayer. Id. at 858. The court found that the levy, advertisement, and sale of the property were required to be in the name of the devisees, who were the owners at the time. Id. The court reasoned that the fundamental right of due process of law required the owner to be given notice prior to being deprived of his property. Id. In addition, since tax sale statutes require constructive notice, rather than actual notice, to the owner of the property, the court asserted that there must be strict compliance with the statute requiring the levying, advertising, and selling of the property in the name of the owner. Id. Likewise, the taxpayer died leaving real property to her minor children. Rives at 289. For approximately seven (7) years and even after the children became adults, the tax notices were in the name of the deceased taxpayer in care of the children's father and mailed to their father's address. Id. at 290. Subsequently, the property was sold at tax sale. Id. The Court found that there was no evidence that notice of the tax sale was given to the children; therefore, the tax sale must be set aside because the property was not "assessed, advertised, levied upon or sold in their names." Id. at 293.

In Osborne and Rives, there was nothing that would have put the tax collector on notice that the defaulting taxpayers had died and the properties were owned by other parties. The Courts still held that the tax sales were void because the required notices and the tax sales were not in the names of the true owners. As the subject property in this matter was not levied, sold, and advertised in the

name of Mary Ravenel, proper notice was not given and the tax sale is void. The fact that the tax collector could have had no way of knowing that there was deficiency with the deed making it ineffective does not change the strict requirements the law provides for tax sales.

IV. THE COURT OF APPEALS FAILED TO CONSIDER THAT THE TRIAL COURT ERRED WHEN IT FAILED TO FIND THAT THE DELINQUENT TAX COLLECTOR DID NOT COMPLYWITH THE STATUTE BECAUSE APPELLANT DID NOT RECEIVE NOTICE OF THE DELINQUENT TAXES AS THE DEFAULTING TAXPAYER.

The Trial Court erred when it failed to find that the tax collector did not comply with the statues, S.C. Code Ann. § 12-51-40(a) and§ 12-51-40(b), when the defaulting taxpayer, Mary Ravenel, was not provided with notices of the delinquent taxes or notice of the tax sale as required by statute. It is commonly believed that a tax execution is issued against the property, but it is, in fact, against the defaulting taxpayer. Taylor v. Jennings, 233 S.C. 600, 608, 106 S.E.2d 391, 397 (1958). As such, according to S.C. Code Ann. § 12-51-40(a) (1976), a notice of delinquent taxes must be mailed "to the defaulting taxpayer and to a grantee of record." (emphasis added). Likewise, S.C. Code Ann. § 12-51-40(b), states that in the case of real property, in order to take exclusive possession, a notice of delinquent taxes must be mailed "to the defaulting taxpayer and any grantee of record." (*emphasis added*).

It is undisputed that Mrs. Ravenel was the owner of the subject property on January 1, 2007. Accordingly, notices were required to be sent to Mary Ravenel as the defaulting taxpayer of the property as of January 1, 2007. Further, Mary Ravenel was the taxpayer of record at the time the tax bills were mailed out as she did not transfer the property until November 6, 2007. (App. p. 69, 80) The fact that Mary Ravenel was the defaulting taxpayer is reflected by the inclusion of her name in the subject line on the Execution Notice dated April 7, 2008 and Notice of Levy dated May 22,

2008. (App. pp. 118-121) Furthermore, the Posting Slip posted August 1, 2008 listed Mary Ravenel as the owner of the property. (App. p. 122-124)

Again, the law is clear in the fact that strict compliance must be met when depriving a person of their property. Here, the tax collector failed to follow the statutory requirements provided under S.C. Code Ann. § 12-51-40(a) and§ 12-51-40(6) by not providing notice to the defaulting taxpayer, and based on the foregoing, the tax sale is void.

V. THE COURT OF APPEALS FAILED TO RECOGNIZE THAT THE STATUTE OF LIMITATIONS DOES NOT APPLY WHEN A TAX SALE IS VOID UPON ITS FACE, THE TRIAL COURT ERRED WHEN IT APPLIED THE TWO (2) YEAR STATUTE OF LIMITATIONS TO THE PRESENT CASE.

The Trial Court erred when it applied the two (2) year statute of limitations in this matter as provided by S.C. Code Ann. § 12-51-160 (1976). The statute states that "[a]n 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.". S.C. Code Ann. § 12-51-160(1976). However, the statute of limitations does not apply in the. instant case because Mary Ravenel was not given required notice of the tax sale; therefore, the tax deed_is void ab initio. Courts have found that"[failure to give the required notice is a fundamental defect in the tax sale proceedings which renders the proceedings absolutely void." Rives, 325 S.C. at 293. Similarly; the Court, quoting Leysath v. Leysath, reasoned that there is a "general rule that a short statute of limitation ... does not apply where, by reason of jurisdictional defect, the tax deed is absolutely void upon its face. Reeping v. JEBBCO, LLC, et al., 402 S.C. 195, 201, 740 S.E.2d 504, 507, (2013) (*emphasis added*). The importance of compliance is evidenced by the Supreme Court's finding that " [e]ven actual notice is insufficient to uphold a tax sale absent strict compliance with statutory

requirements." Ryan Inv. Co. v. Richland Co., et al., 335 S.C. 392,395, 517 S.E.2d 692,693 (1999) (*emphasis added*). In the hearing, Judge Dennis stated (App. p. 106, lines 17-24)

THE COURT; · *Okay. And Ms. Ravenel, there's no question there's testimony that she appeared and tried to negotiate this property's return, because she testified to that?*

MR. BERLINSKY: *That's correct.*

THE COURT: *So there's no question she had notice, correct? How could you not - - how could you negotiate if you didn't have notice?*

The Trial Court erred when it found the statute of limitations applied based on Mrs. Ravenel having actual knowledge of the impending tax sale. While Mrs. Ravenel did have actual notice of the sale, she was not given constructive notice through the notices required by law. Notices were not sent to Mrs. Ravenel, but instead were mailed to the attention of Lashanda Ravenel and Henry Ravenel, II, who never received them. (App. p. 118-121) Therefore, absent strict compliance with the statutory requirements, the tax sale is void and the two (2) year statute of limitations does not apply.

VI. THE COURT OF APPEALS FAILED TO CONSIDER THAT NO CREDITORS OF APPELLANT HAVE MADE ANY CLAIMS THAT THEY WERE DEFRAUDED NOR IS RESPONDENT A CREDITOR OF THE APPELLANT, THEREFORE, RESPONDENT'S UNCLEAN HANDS ARGUMENT IS NOT APPROPRIATE.

Respondent asserts that Ms. Ravenel defrauded creditors and she should not be granted relief due to having unclean hands. (App. p. 46.) The Court should note that no creditor has ever claimed or filed an action against Ms. Ravenel stating that they were defrauded by Ms. Ravenel's actions, nor is the Respondent a creditor of Ms. Ravenel. While it is true that the doctrine of unclean hands prevents a party from recovering in equity if the party acted "unfairly in a matter that is the subject of the litigation to the prejudice of the defendant," the doctrine does not apply in the

present situation. First Union Nat'l Bank of SC v. Soden, 333 S.C. 554, 568, 511 S.E.2d 372, 379 (Ct. App. 1998).) In order to use a defense of unclean hands, the Appellant should have a clean record with respect to the transaction with the Respondent and not with respect to others. See Arnold v. City of Spartanburg, 201 S.C. 523, 23 S.E.2d 735,738 (S.C., 1943). Here, the Respondent is attempting to use the actions of Ms. Ravenel in her bankruptcy to claim she has unclean hands. However, the Respondent was not a party or creditor in the bankruptcy action, and no creditor, who may assert an unclean hands argument, has come forward. As such, Respondents unclean hands argument is not appropriate.

VII. THE COURT OF APPEALS INCORRECTLY RECOGNIZED THAT THE RESPONDENT'S ARGUEMENT THAT COLLERTAL ESTOPPEL BARRS A NUMBER OF APELLANT'S ARGUMENTS WHEN THOSE ISSUES WERE NOT ADDRESSED OR LITIGAGED IN THE PREVIOUS ACTION.

Respondent argues that a number of Appellant's arguments are barred due to collateral estoppel and due to those arguments not being presented as a part of the 2010 case. However, under the doctrine of collateral estoppel, the only issues that are precluded are issues "actually and necessarily litigated and determined in the first suit." Pye v. Aycock, 325 S.C. 426,435,480 S.E.2d 455,459 (S.C. App., 1997) (citing Beall v. Doe, 281 S.C. 363,315 S.E.2d 186 (Ct. App. 1984) (explaining the differences between res judicata and collateral estoppel)). In order to successful in asserting collateral estoppel, "the party seeking issue preclusion still must show that the issue was actually litigated and directly determined in the prior action and that the matter or fact directly in issue was necessary to support the first judgment." Id. at 436, 460. Respondent states that Ms. Ravenel is collaterally estopped from raising such outstanding issues as to whether Ms. Ravenel was the true owner at the time of the tax sale due to the defect of the deed, whether the tax sale was void for failure of the delinquent tax collector to provide notice to Ms. Ravenel as the defaulting taxpayer,

and whether the statute of limitations runs against her. Respondent fails to show that these issues were actually litigated and directly determined in the previous action. Rather, Respondent's argument is that the Plaintiffs in the 2010 case could have addressed these issues and failure to do so means that Ms. Ravenel is collaterally estopped from bringing them. As previously stated, the Court in Pye v. Aycock found only issues actually litigated in a previous suit would be issues that could not be raised· in the present case due to collateral estoppel. Appellant maintains that she was not a party to the previous case and, therefore, not bound by the order. However, even if the Court finds Ms. Ravenel is bound by the previous ruling, collateral estoppel does not prevent the Appellant or the Court from addressing the issues mentioned above as those issues were

a) Opinion No. Op. 5536 of the Court of Appeals in the case at hand misapprehended the facts regarding Due Process rights of the Appellant as it relates to statutory notice requirements by mail pursuant to South Carolina Code § 12-51-40 (b) [1] which directs that the notice(s) shall be sent via "certified mail, return receipt requested-restricted delivery".

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[1] **South Carolina Code § 12-51-40 (b),** If the taxes remain unpaid after thirty days from the date of mailing of the delinquent notice, or as soon thereafter as practicable, take exclusive possession of the property necessary to satisfy the payment of the taxes, assessments, penalties, and costs. In the case of real property, exclusive possession is taken by mailing a notice of delinquent property taxes, assessments, penalties, and costs to the defaulting taxpayer and any grantee of record of the property at the address shown on the tax receipt or to an address of which the officer has actual knowledge, by ***"certified mail, return receipt requested-restricted delivery"*** pursuant to the United States Postal Service "Domestic Mail Manual Section S912". If the addressee is an entity instead of an individual, the notice must be mailed to its last known post office address by certified mail, return receipt requested, as described in Section S912. In the case of personal property, exclusive possession is taken by mailing the notice of delinquent property taxes, assessments, penalties, and costs to the person at the address shown on the tax receipt or to an address of which the officer has actual knowledge. All delinquent notices shall specify that if the taxes, assessments, penalties, and costs are not paid before a subsequent sales date, the property must be duly advertised and sold for delinquent property taxes, assessments, penalties, and costs. The return receipt of the "certified mail" notice is equivalent to "levying by distress".

The Court of Appeals in the subject opinion heavily relies on the fact that the mail from the DTC addressed to the children of the Appellant was sent to the mail box owned by Appellant Mary B. Ravenel averring the sufficiency thereof, that Mary B. Ravenel received notice of the tax delinquency and tax sale procedures. However, in the real world Mary B. Ravenel could not open the notices due to the fact that pursuant to the USPS Rules and Regulations she would not have been allowed to open "certified mail, return receipt requested-restricted delivery" addressed to her children. A Postmaster is prohibited from divulging to a "non-addressee" who the sender is, and most certainly will not allow a third person to even touch the envelope sent by "certified mail, return receipt requested-restricted delivery".[2] If an addressee is never given the opportunity

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[2] USPS Rules 508 Recipient Services 1.1.8 Additional Delivery Standards for Restricted Delivery In additional to the standards described under 1.1.7, ***mail marked "Restricted Delivery" is delivered only to the addressee or to the person authorized in writing as the addressee's agent (the USPS may require proof of identification from the addressee (or agent) to receive the mail,*** .....

a. Mail for famous personalities and executives of large organizations is normally delivered to an agent authorized to sign for such mail.
b. Mail for officials of executive, legislative, and judicial branches of the government of the United States or of the states and possessions and their political subdivisions, or to members of the diplomatic corps, may be delivered to a person authorized by the addressee or by regulations or procedures of the agency or organization to receive the addressee's mail.
c. Mail for the commander or other officials of military organizations by name and title, is delivered to the unit mail clerk, mail orderly, postal clerk, assistant postal clerk, or postal finance clerk, when such individuals are designated on DD (Department of Defense) Form 285 to receipt for all mail addressed to the units for which they are designated. If the person accepting mail is designated on DD Form 285 to receipt for ordinary mail only, then restricted delivery mail addressed to the commander, or other official by name and title, is delivered to the mail clerk only if authorized by the addressee.
d. Mail for an inmate of a city, state, or federal penal institution, in cases where a personal signature cannot be obtained, is delivered to the warden or designee.
e. Mail for minors or persons under guardianship may be delivered to their parents or guardians.
f. An addressee who regularly receives restricted delivery mail may authorize an agent on Form 3801 or by letter to the Postmaster and must include the notation "this authorization is extended to include restricted delivery (or Adult Signature Restricted Delivery) mail". Form 3849 also may be used for the authorization, if the Post Office has no standing delivery order or letter on file, when the addressee enters the name of the agent on the back of Form 3849 in the space provided and signs the form. The agent must sign for receipt of the article on the back of the form.

to see who the sender is because inevitably the addressee will refuse to sign for undesirable mail. Only the children of Mary B. Ravenel would have been allowed access to the envelope mailed to them, respectively, and that's after their identification has been established and the green card has been signed by the addressee.[3] Mary B. Ravenel was not the addressee nor was she the agent of her children. Neither the notice of delinquent property taxes, assessments, penalties, and costs to the defaulting taxpayer nor the notice of redemption also was not mailed to appellant by as required by South Carolina Code § 12-51-60 by "certified mail, return receipt requested-restricted delivery" and should was not availed to the notices sent to her children.[4] It does not matter if the

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g. When mail is addressed to two or more persons jointly, all addressees or their agents must be present to accept delivery together. The delivery receipt obtained and the return receipt, if any, must be signed by all joint addressees or their agents. The mail may then be delivered to any of the addressees or their agents unless one or more addressees or their agents object, in which case delivery is not made until all the addressees or their agents sign a statement designating who is to receive the mail. Either person may sign for mail addressed to one person in care of another (i.e. "In Care Of"). 1.1.8.

[3] USPS Rules 508 Recipient Services 1.1.5 Addressee Identification ***-If a person claiming to be the addressee of certain mail is unknown to the delivery employee, the mail may be withheld pending identification of the claimant.***

[4] South Carolina Code § 12-51-60. Payment by successful bidder; receipt; disposition of proceeds. The successful bidder at the delinquent tax sale shall pay legal tender as provided in Section 12-51-50 to the person officially charged with the collection of delinquent taxes in the full amount of the bid on the day of the sale. Upon payment, the person officially charged with the collection of delinquent taxes shall furnish the purchaser a receipt for the purchase money. He must attach a copy of the receipt to the execution with the endorsement of his actions, which must be retained by him. Expenses of the sale must be paid first and the balance of all delinquent tax sale monies collected must be turned over to the treasurer. Upon receipt of the funds, the treasurer shall mark immediately the public tax records regarding the property sold as follows: Paid by tax sale held on (insert date). All other monies received, including any excess after payment of delinquent taxes, assessments, penalties, and costs, must be retained, paid out, and accounted for by the delinquent tax collector. Once a tax deed has been issued, ***the defaulting taxpayer and the owner of record immediately before the end of the redemption period must be notified in writing by the delinquent tax collector of any excess due. The notice must be addressed and mailed in the manner provided in Section 12-51-40(b) for taking exclusive possession of real property.*** Expenses of providing this notice are considered costs of the sale for purposes of determining the amount, if any, of the excess.

mail was sent to her mail box, the mailed notices were not addressed to her. Mary B. Ravenel did not receive proper notice thus her constitutional right to due process has been infringed upon. The order by the trial judge and the ratification of said order by the subject opinion amounts to the improper taking of Mary B. Ravenel's property rights. not addressed and litigated in the 2010 case.

b) The two year statute of limitation does not apply when the Due Process rights of a property owner have been infringed upon and violated.

According to Dibble v. Bryant, 274 S.C. 481, 265 S.E.2d 673 (1980) the South Carolina Supreme Court has consistently ***held the enforcing agencies of government to strict compliance with all the legal requirements surrounding tax sales.*** Proper Notice equals Due Process, and in the present action Mary B. Ravenel did not receive proper notice and was not properly named as a party in the first legal action filed against her children regarding the subject property. The statutory requirement of South Carolina Code § 12-51-40 were not strictly complied with, as stated in the first argument delineated above. The lack of notice (i.e., due process) prevents the assertion of the statute of limitation defense on the part of the Respondents. South Carolina Code § 12-51-160 was not intended to bar an action under the circumstances of this case. The legislature intended the statute 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.[5] The one exception to this statute is lack of proper notice and strict compliance with the statutes governing tax sale process and procedures. Proper notice was never afforded to Appellant in the first action to which she would have been a proper party. Appellant Mary B. Ravenel is not bound by the legal ruling in

[5] Section 12-51-160 provides that the tax sale deed is evidence of good title and that "all proceedings have been regular and that all legal requirements have been complied with." S.C. Code Ann. § 12-51-160. The section further provides a time limit for recovering land sold pursuant to a tax sale: "No action for the recovery of land sold under the provisions of this chapter or for the recovery of the possession may be maintained unless brought within two years from the date of sale."

the first case, thus, res judicata does not apply against the Appellant because the legal ruling is impotent, insufficient and ineffectual since she was not made a party thereto. Likewise the statute of limitation clock failed to begin to tick since the Appellant Mary B. Ravenel was unnamed in the first proceeding and at any point during the tax sale process as delineated in the South Carolina Code. Appellant also cites S.C. Const. art. I, § 3 providing no person "shall . . . be deprived of life, liberty, or property without due process of law . . . ." . the U.S. Constitution Fifth Amendment - No person shall ... be deprived of life, liberty, or property, without due process of law.....; and, the U.S. Constitution Fifth Amendment Fourteenth Amendment § 1. - All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

VIII. THE COURT OF APPEALS INCORRECTLY GAVE CREDENCE TO THE RESPONDENT'S ARGUMENT THAT COLLATERAL BARRED THE ARGUMENTS MADE BY THE APPELLANTS, FAILING TO RECOGNIZED THAT THE RESPONDENT CITED THE ELEMENTS OF RES JUDICATA.

Even though Respondent repeatedly claims collateral estoppel applies, Respondent relies on the elements of res judicata, rather than collateral estoppel, when it asserts that Ms. Ravenel cannot present arguments that were not raised in the previous action. Res judicata, rather than. collateral estoppel, "bars a litigant from raising any issues which were adjudicated in the former suit and any issues which might have been raised in the former suit." Pye at 435,459. The Court has stated, "[t]he doctrines of res judicata and collateral estoppel are, of course, two different concepts." Pye at 435, 459. To be successful in establishing res judicata, the Respondent must show: "(1) the identities of the parties is the same as a prior litigation; (2) the subject matter is the

same as the prior litigation; and (3) there was a prior adjudication of the issue by a court of competent jurisdiction." Pye at 432,458. Further, the purpose of res judicata is to "ensure that no one should be twice sued for the same cause of action." S.C. Pub. Interest Found v. Greenville Cnty., 401 S.C. 377, 737 S.E.2d 502,507 (Ct. App., 2013) (quoting Yelsen Land Co. v. State, 397 S.C. 15, 22, 723 S.E.2d 592, 596 (2012)).

In the 2010 action, the Plaintiffs attempted to have the tax sale set aside. Appellant maintains that she was not a party to the previous action and, therefore not bound by it. Subsequently, the Respondent brought the current action to quiet title against Ms. Ravenel. If the purpose behind the doctrine of res judicata is to prevent a party from being sued twice on the same cause of action, the Respondent should not be allowed to bring this action and then assert □hat Ms. Ravenel cannot present any defenses because she is barred by a previous case to which she was not a party.

Appellant contents the first element of res judicata, the requirement of the parties being the same in the prior litigation, is not met. However, even if the Court finds that the Respondent's argument has met the first and second element of res judicata, the issues were not fully adjudicated as is evidenced by the fact that Respondent had to bring this action due to the 2010 case leaving the property with a cloud on the title and creating questions and outstanding issues that must be litigated in this suit.. The 2010 ruling, that the deed was not effective, changed not only ,the necessary parties to the action, but also changed the arguments and issues to be raised. Therefore, the issues and arguments raised by Appellant are not barred by res judicata.

a) Res Judicata is not applicable to the case at hand since the Appellant's due process right have been infringed upon.

The Appellant incorporated the arguments stated above, further stating that the opinion of the Court of Appeals does not take into account that in the first action Mary B. Ravenel should have been made a party and since she was not made a party then res judicata does not apply to

her. In the first hearing if Appellant would have been named as a party she would have been able to prove that she was not properly notified by the DTC and the tax sale would have been void based on the strict compliance requires discussed in Dibble v. Bryant, 274 S.C. 481, 265 S.E.2d 673 (1980). Res Judicata should have not been at issue in the case at hand.

CONCLUSION

We do not own property in the State of South Carolina, we are merely renting tenants, for if through some technicality the property taxes go unpaid, your land can be permanently taken from you by the government. This old women (Mary Ravenel) is losing her home, soon to become homeless, her life time of savings gone via an improper tax sale. The South Carolina Court of Appeals failed to consider and give credence to the issues presented by the Appellant in this matter, to wit:

- The Trial Court erred when it failed to take testimony or hear arguments on material issues of fact that were before the court. Additionally, there was no testimony taken by the Trial Court to support the Trial Courts findings that Mrs. Ravenel had defrauded her creditors as stated in the Court's Order.

- Further, Mary Ravenel was not bound by the previous court Order as she was not a party to the action. However, if the Court believes Mrs. Ravenel was bound by the court Order, then judicial estoppel does not apply since the position of Mrs. Ravenel did not change.

- The tax sale is void on its face because the tax collector failed to levy, advertise, or sell the property in the name of the true owner, Mary Ravenel. Further, pursuant to the statutes, Mary Ravenel was entitled to notices of the delinquent taxes as the defaulting taxpayer and lack of strict compliance with the statute renders the sale void. Finally, the two (2) year statute of limitations does not apply in the instant case because, for the reasons above, the tax sale is void ab initio.

For the reasons stated, this Court should reverse the judgment of the Trial Court and South Carolina Court of Appeals. A Writ of Certiorari is warranted under the circumstances that the home of the Appellant is being taken.

Respectfully submitted by:

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Counsel for Appellant Mary B. Ravenel

CERTIFICATE OF COUNSEL

As counsel for the petitioner, I believe this Petition for Writ of Certiorari in meritorious hereby certify that this petition is presented in good faith and not intend to delay justice.

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May 29, 2018

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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable R. Markley Dennis, Jr., Circuit Court Judge

Appellate Case No. 2015-002257

Equivest Financial, LLC,.....Respondent,

v.

Mary B. Ravenel and AAA Plumbing, Inc.,
Defendants,

Of Whom Mary B. Ravenel is the.....Appellant,

PROOF OF SERVICE

I HEREBY CERTIFY that I have served the PETITION FOR WRIT OF CERTIORARI and APPENDIX on respondent by depositing copies of the same in the United States Mail, postage prepaid, addressed to the Counsel of Record, below:

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May 29, 2018