

Present at the hearing was counsel for the Plaintiff, Dwight C. Moore. Present was counsel for the Defendants, Curtis McAlister and Aquana McAlister, Willie H. Brunson. Present was counsel for the Defendants, Hartwell Pendergrass, Sr. and Hattie S. Pendergrass, Harriet Lynae Huell Lampkin. Present was counsel for the Defendants, Williamsburg County and Norma L. Cyrus, W. Evan Reynolds.

The Court heard oral arguments as to both motions from the parties, reviewed the case file and the documents presented to the Court, to include the Defendants', Williamsburg County and Norma L. Cyrus, Memorandum in Support of Summary Judgment and the Plaintiff's Reply to Defendants', Williamsburg County and Norma L. Cyrus, Motion for Summary Judgment.

Based on the arguments of counsel and the evidence presented, the Court finds it is not necessary to rule on said Defendants' motion to amend answer as the Court finds that there is no genuine issues as to any material fact and that said Defendants are entitled to a judgment as a matter of law based on the motion for summary judgment.

The Court finds that under the South Carolina's public duty doctrine, public officials are not liable to individuals for their negligence in discharging public duties as the duty is owed to the public at large rather than to anyone individually. *Tanner v. Florence Co. Treasurer, et al.*, 336 S.C. 552, 521 S.E.2d 153 (S.C. 1999); *Jensen v. Anderson County Dep't of Soc. Servs.*, 304 S.C. 195, 403 S.E.2d 615 (S.C. 1991). However, an affirmative legal duty may be created by statute, contract relationship, status, property interest, or some other special circumstance. *Id.* All requirements of law leading up to tax sales are intended for the protection of the taxpayer against surprise or the sacrifice of his property and are regarded as mandatory and are strictly enforced. *Dibble v. Bryant*, 274 S.C. 481, 265 S.E.2d 673 (1980). Failure to give the required notice is a fundamental defect in the tax proceedings which renders the proceedings absolutely void.

Donohue v. Ward, 298 S.C. 75, 378 S.E.2d 261 (Ct.App.1989). The Court will set aside sales where S.C. Code Ann. §12-51-40 has not been complied with by public officials. *Snelgrove v. Lanham*, 298 S.C. 302, 379 S.E.2d 904 (1989).

In the current case, Plaintiff asserts that the Defendants, Norma L. Cyrus and Williamsburg County, are liable to her for violating S.C. Code §12-51-40, by not providing her with notice of the delinquent taxes, the sale of the property and the opportunity to redeem the subject property located at 196 Gausetown Road in Kingstree, South Carolina. In *Tanner*, the South Carolina Supreme Court indicated that the notice provision of S.C. Code §12-51-40 creates a special duty to the owner of property so as to provide him or her with notice to protect the taxpayer against surprise or the sacrifice of his or her property. However, the Plaintiff does not fall under the public duty exception, nor is she owed this special duty. The Plaintiff is not the defaulting taxpayer of record, nor the owner of record, nor the grantee of record in regards to the subject property. Therefore, the Plaintiff lacks standing, and is not owed any duty from the Defendants, Williamsburg County and Ms. Norma Cyrus, under S.C. Code §12-51-40 in regards to the subject property.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:

1. The Defendants, Williamsburg County and Norma L. Cyrus, motion for summary judgment as to all causes of action asserted against said Defendants by the Plaintiff is hereby granted based on the above.

IT IS SO ORDERED.

December ____, 2018
_____, South Carolina

George M. McFaddin, Jr.
Circuit Court Judge
Third Judicial Circuit



Williamsburg Common Pleas

Case Caption: Shawonder Scott VS Curtis McAlister , defendant, et al
Case Number: 2015CP4500401
Type: Order/Dismissal

So Ordered

S/George M. McFaddin, Jr., #2759