

STATE OF SOUTH CAROLINA)
)
 COUNTY OF FLORENCE)
)
 Sandy Hill Partners, LLC,)
)
 Plaintiff,)
)
 vs.)
)
 Central Palmetto Asset Management,)
 LLC, and the County of Florence,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS

C/A NO.: 2018-CP-21-02662

ORDER GRANTING DEFENDANT
CENTRAL PALMETTO ASSET
MANAGEMENT, LLC'S MOTION
FOR SUMMARY JUDGMENT

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SC Court of Appeals

This matter came before me on Monday, August 26 pursuant to Defendant Central Palmetto Asset Management LLC'S motion for summary judgment. Present were Theodore von Keller attorney for Central Palmetto Asset Management LLC, Walker H Wilcox as attorney for Plaintiff Sandy Hill Partners, LLC, and D. Malloy McEachron Jr. attorney for the County of Florence. After consideration of the filings of the parties, the court file, the pleadings and argument of counsel the court makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. That this is an action to avoid a tax sale which was conducted on October 3, 2016.
2. Defendant Central Palmetto Asset Management LLC moved for summary judgment attaching the tax sale files of Florence County.
3. The property involved is 4 mobile homes located in Florence County, South Carolina, and, identified as Florence County map block parcel numbers 28000-43-352; 27000-42-956; 27000-43-062; and 25000-40-369.
4. At the time of the tax sale the records of the Florence County reflected that the subject mobile homes were owned by Mark M. Richardson.

5. That the subject mobile homes were sold by Defendant Florence County on October 03, 2016 due to the non-payment of the 2015 taxes.

6. That all required notices were mailed to the record owner, Mark M. Richardson, regarding the October 3, 2016 tax sale, including, but not limited to, the notice of delinquent taxes, notice of levy on execution, and notice of the approaching end of the redemption period.

7. That on or about October 3, 2016, Defendant Central Asset Management purchased the subject mobile homes as high bidder at the tax sale

8. That on or about September 11, 2017, Defendant Florence County performed a search of the South Carolina Department of Motor Vehicles and discovered that Sandy Hill Partners, LLC acquired title to the subject mobile homes.

9. That, Plaintiff, as grantee of the subject mobile homes, was provided with notice of the approaching end of the redemption period on September 11, 2017, pursuant to § 12-51-120, *Code of Laws of South Carolina (1976, as amended)*.

10. That Defendant Florence County also provided Mark M. Richardson with notice of the approaching end of the redemption period on September 11, 2017, pursuant to § 12-51-120, *Code of Laws of South Carolina (1976, as amended)*.

11. That Defendant Central Palmetto Asset Management, LLC was the high bidder at the October 3, 2016 tax sale, and is the current title holder of record according to the South Carolina Department of Motor Vehicles.

12. Prior to the first hearing on defendant's motion for summary judgment on April 1, 2019 plaintiff opposed the motion for summary judgment and attached the affidavit of Andrew Nissen the principal of Sandy Hill partners LLC who purchased the Sandy Hill mobile home park on October 3, 2016. In his affidavit, Mr. Nissen stated that he purchased the park from RMR

Rental Investments, LLC and that the mobile homes claimed by Central Palmetto Asset Management were sold to him on October 3 and he received clear title in February 2017. Mr. Nissen further stated that he never observed any notices posted the park,

13. Mr. Nissen did not, however offer any facts to the court to suggest that he complied with the statutory requirements set forth under South Carolina Code of Laws §31-17-320(a).

14. That the sale conducted on October 3, 2016 was in accordance with of § 12-51-10, Et seq., *Code of Laws of South Carolina (1976, as amended)*.

CONCLUSIONS OF LAW

1. Summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Harris v. Anderson County Sheriff's Office*, 381 S.C. 357, 673 S. E. 2d 423 (SC. 2009).
2. When plain, palpable and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted. *USAA Property and Cas. Insurance Co. v. Clegg*, 377 S.C. 643, 661 S. E. 2d 791 (S. C. 2008).
3. Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings but rather must come forward with specific facts showing there is a genuine issue for trial. *Singleton v. Shearer*, 377 S.C. 185, 659 S. E. 2d 196 (S.C. App 2008). If he does not so respond, summary judgment, if appropriate, shall be entered against him. Rule 56, SCRCP.
4. Mobile homes are considered personal property for tax purposes. The ability to move the mobile home at will causes a mobile home to be treated similar to a vehicle for property taxes. The owner of the mobile home is responsible for registering said mobile

home in the County where it is situated and like a car if moved, the county must be notified within 15 days after bringing a mobile home into the state, or the purchase of a mobile home in the state, or the relocation of a mobile home from one county to another within the state, for dwelling purposes, the owner, rental agent, or person in possession shall obtain a license from the governing body of the County or its designated agent hereinafter referred to as a licensing agent in which such mobile home is located. § 31-17-320(a), *Code of Laws of South Carolina (1976, as amended)*

5. Plaintiff offered into evidence copies of the certificates of title on the subject mobile home reflecting the owner as RMR Rental and Investments LLC. Plaintiff did not however, offer any evidence to contradict the Florence County tax sale records which reflect that the mobile homes remained titled in the prior owner 's name, Mark W. Richardson , and that pursuant to § 31-17-320(a), *Code of Laws of South Carolina (1976, as amended)* this was the only party to whom the County was required to give notice. see *Groce v. Horry County*, 2011 SC App. Unpubl. LEXIS 109;2011 WL 11733611.
6. It further appears that the County properly provided notice of the approaching end of redemption. § 12-51-120, *Code of Laws of South Carolina (1976, as amended)* provides for who is entitled to notice of the end of the approaching redemption:

“neither more than 45 days or less and 20 days before the end of the redemption period for real estate sold for taxes, the person officially charged with the collection of delinquent taxes shall mail a notice by “certified mail, return receipt requested – restricted delivery” as provided in section 12 – 51 –

40 (B) to defaulting taxpayer and to a grantee, mortgagee, or lessee of the property of record in the appropriate public records of the county.....”

7. In order to receive notice from the County of the redemption after the tax sale of a mobile home, the owner and their address must be proved identified on forms provided to the county. Plaintiff has provided no proof to the court that it ever was identified as the owner of any filed paperwork with Florence County.
8. In regards to Plaintiff's claim for lot rent, Plaintiff has failed to offer any evidence to the Court that it made demand for lot rent to the defendant after the tax sale or what an appropriate lot rent would be. Furthermore, § 29-15-10, *Code of Laws of South Carolina (1976, as amended)* provides the appropriate storage lien remedy to a landowner who seeks lot rent. The Court finds that Plaintiff has failed to utilize the appropriate statute for recovery of storage liens/lot rent.

WHEREFORE IT IS HEREBY ORDERED AS FOLLOWS:

1. That the tax sale of the subject mobile homes was conducted in accordance with §12-51-10, et seq. *Code of Laws of South Carolina (1976, as amended)*.
2. That Defendant Central Palmetto Asset Management, LLC is the record owner of the following mobile homes:
 - a. 1995 Sunshine mobile home, VIN ALS00222, Florence County TMS 2800-43-352;
 - b. 1997 Bellcrest mobile home, VIN GBHMK50444, Florence County TMS 2700-42-956;
 - c. 2000 Fleetwood mobile home, VIN NCFLX46AB09664AV11, Florence County TMS 2700-43-062;
 - d. 1996 Oakwood mobile home, VIN HONC01129966A&B, Florence County TMS 2500-40-369.
3. That as record owner of the aforementioned mobile homes, Defendant Central Palmetto Asset Management LLC is entitled to possession of the same.

4. That the Sheriff of Florence County serve a copy of this Order on the Plaintiff or the occupants of the mobile home. The Plaintiff and/or occupants shall have five (5) days from the date of service to vacate the mobile homes. Thereafter, the Sheriff shall deliver possession of the mobile home to the Defendant Central Palmetto Asset Management LLC or Central Palmetto Asset Management LLC's authorized representative and shall take any and all lawful and reasonable steps to remove the Plaintiff and/or the occupants together with any personal property therein.

AND IT IS SO ORDERED.

The Honorable Michael G. Nettles

Florence, South Carolina
_____, 2019



Florence Common Pleas

Case Caption: Sandy Hill Partners VS Central Palmetto Asset Management ,
defendant, et al
Case Number: 2018CP2102662
Type: Order/Summary Judgment

So Ordered

s/ The Honorable Michael G. Nettles #2140