

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)
SARA GLEATON, as Personal)
Representative of the Estate of WILTON)
GLEATON,)
Plaintiff,)

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO.: ~~2010-CP-38-1749~~
2013 CP 3800426

v.

ORANGEBURG COUNTY,)
POLITICAL SUBDIVISION OF THE)
STATE OF SOUTH CAROLINA,)
Defendant.)

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SC Court of Appeals

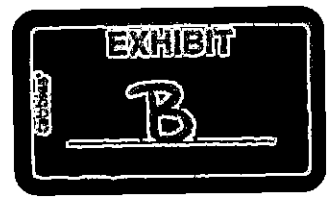
ORDER

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ORANGEBURG

This matter comes before the Court pursuant to Plaintiff's motion filed on December 2, 2016. On September 17, 2014, the Court held a hearing on this matter, heard testimony, and issued a Final Order filed December 31, 2014. The Court made four findings in the Order. First, the tax sale was flawed and not valid, and had no effect to the marketable title of the subject property owned by Wilton Gleaton. Second, the Court took under advisement the issue of liability and damages. Third, Wilton Gleaton would attempt to sell the property within four (4) months. Finally, the Court left open the issue of additional relief by either party to help with the sale of the property.

After the December 31, 2014 Order, Mr. Gleaton passed away. Mrs. Gleaton has undertaken extensive efforts in an attempt to sell the property. She tried selling the home herself without success. She spoke to individuals about listing the Home for her, but the Home could not be listed without a permanent foundation. Unfortunately, none of these efforts resulted in a sale of the Home. A second hearing on this matter was held on April 13, 2017, to determine the amount of damages. After hearing testimony and reviewing the parties' submissions, the Court's findings as to damages are as follows.

In October 2009, Plaintiff had a contract with Donnie and Connie Hall to purchase the Property for \$33,000.00. The sale seems likely to have been consummated had the issue with the title not arisen.



Since that time, Plaintiff has had to pay the upkeep, electric bills, maintenance, insurance, and property taxes on the Property.

The question in this case is whether the Plaintiff has proven its case for slander of title against the Defendant by a preponderance of the evidence. The elements of slander of title in South Carolina are that the Plaintiff must establish: (1) the publication (2) with malice (3) of a false statement (4) that is derogatory to Plaintiff's title and (5) causes special damages (6) as a result of diminished value of the property in the eyes of third parties. Pond Place Partners vs. Poole 351 S.C. 1, 567 S.E. 2d 881 (S.C. App. 2002).

The Court previously found that the tax sale was flawed. The Court corrected the title error in its previous Order and authorized the Plaintiff to sell the property to determine what, if any, damages there would be after the sale. Unfortunately, the Plaintiff appeared to be unable to sell the property and now seeks damages for slander of title. The Court must now determine if damages should be awarded in this case.

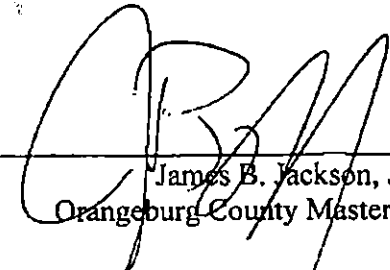
The focus for the Court, is whether the Defendant's actions in selling this property for non-payment of taxes was malicious. The Defendant sold the property in a tax sale to James Fields. They later determined the tax sale was flawed so they had Mr. Fields sign a deed conveying the property back to the defaulting taxpayer Debra Foxworth. At no time did the Defendant learn that Ms. Foxworth had conveyed the property to the Plaintiff. As a result, the Deed from Mr. Fields to Ms. Foxworth, which was unknown to the Plaintiff, created a cloud on title. However, the property taxes had not been paid which gave the Defendant the right to sell the property for non-payment of taxes.

The Court finds that there was no malice on behalf of the Defendant in this case. Clearly, the Defendant made no publication that was intended to cause harm to the Plaintiff, nor was any statement made that was knowingly false or in reckless disregard of its truth or falsity. The Defendant's efforts were

focused on collecting taxes for which they may be immune from liability. 15-78-60(11) South Carolina Code of Laws 1976, as amended. The slanderous statement made in this case was the deed from Mr. Fields to Ms. Foxworth. This statement was actually made by Mr. Fields. This action was taken at the request of the Defendant to return the property to the defaulting taxpayer, not to damage the Plaintiff. Finally, I find that when the Plaintiff bought the property from Bank of America on August 18, 1998, the 1998 property taxes were due and owing. This would have been revealed by a proper title search. In addition the 1999 taxes were not paid. These problems could have and should have been discovered by the Plaintiff

Regardless, the Courts finds that the Defendant was without malice in their actions in this case. Therefore, the Plaintiff request for damages must be denied.

IT IS THEREFORE ORDERED the Plaintiff's claim for damages for slander of title is hereby dismissed for the reasons set forth herein.


James B. Jackson, Jr.
Orangeburg County Master-in-Equity

December 19, 2019
Orangeburg, South Carolina