

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT) CIVIL ACTION NO: 2016-CP-07-01493

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AUG 17 2020

SC Court of Appeals

ORDER GRANTING SUMMARY
JUDGMENT TO BEAUFORT COUNTY
TREASURER

JUAN ANTONIO ADAME TAPIA AND)
OSCAR MORENO,)
Plaintiffs,)

vs.)

MARIA WALLS, IN HER CAPACITY)
AS TREASURER FOR THE COUNTY)
OF BEAUFORT, BERKELY HALL)
CLUB, INC., COLLETON RIVER)
PLANTATION CLUB, INC.,)
CALLAWASSIE ISLAND PROPERTY)
OWNERS ASSOCIATION, INC.,)
BELFAIR PROPERTY OWNERS)
ASSOCIATION, INC.,)
DAVID LAPORTE, KAREN B.)
LESTER, TIMOTHY B. HOCKMAN,)
SHEILA F. HOCKMAN, BILL H.)
HOLSHOUSER, TERRY M. ASH,)
PATRICIA ASH AND COREY T.)
BREWER)
Defendants.)

This matter comes before me June 17, 2020 on the motion of Defendant Maria Walls, Treasurer of Beaufort County. This is an unusual case in which the tax sale purchasers (Plaintiffs) seek to set aside their own purchases. Plaintiffs take this action because their cost of ownership significantly exceeds their original expectations.

Plaintiffs claim that they are entitled to relief based on a number of alleged errors by the Treasurer's office as to Defendant's dealings with Plaintiffs. For

purposes of this motion, it is stipulated that, as to the Defaulting taxpayers, the sale was conducted properly under the statutory scheme provided in Title 12. The defaulting taxpayers have not sought to overturn or vacate the tax sales or deeds on the basis of improper notice to the tax payer. Walls contends that she is entitled to summary judgment as a matter of law because the Plaintiffs are not entitled to set the tax sale aside and there is no remaining issue for the jury in this matter.

FACTS

The parties have entered into stipulations of fact for the purpose of this motion only. The facts as agreed upon by the parties as it relates to this motion are that the Plaintiffs individually and/or together were the successful bidders on eight properties at the October 6, 2014 Beaufort County Tax Sale. These properties were located in various developments and plantations that require the payment of yearly assessments or club memberships. That the Plaintiffs were unaware of the assessments at the time they bid on the relevant properties. After the relevant bids were accepted by the Treasurer's Office, but before the end of the redemption period a year later in October 2015, the Plaintiffs received notice from the various Homeowners associations and Clubs that they were going to be assessed thousands of dollars in assessments and membership dues as the owners of the relevant properties. For the purpose of this motion, it is stipulated that the Plaintiffs communicated several times with the Treasurer's Office prior to the end of the redemption period seeking to cancel the sale and/or assign their bid, and on at least one occasion, they were advised by an unknown employee of

the Treasurer that they were not allowed to do that. It was for the purpose of this motion, stipulated that his statement was partially in error as it was made prior to October 2015. While bids are not allowed to be cancelled, bids may be assigned if such assignment is made prior to the end of the relevant redemption period.

The properties were not redeemed during the redemption period. The cost associated with recording the tax sale title set forth in S.C. Ann. §12-51-130 were collected from the Plaintiffs as part of the bid payment at the tax sale. The Treasurer recorded the tax sale deeds subsequent to the end of the redemption period over the objection of the Plaintiffs.

As to the Treasurer, the Plaintiffs contend that the tax sale should be set aside for three reasons:

- 1) The Treasurer erred in providing the Plaintiffs with incorrect information in that it advised that they could not cancel or assign their bids prior to the expiration of the redemption period when in fact S.C. Code Ann 12-51-90(A) appears to permit just such an action;
- 2) The Treasurer erred in recording the Tax Deeds for the relevant properties without first collecting from the bidder/purchaser recording fees and costs as required by S.C. Code Ann. §12-51-130; and
- 3) The tax sale process is not structured to adequately inform potential bidders of the unique costs, obligations and assessments associated with purchasing properties with Home Owners Associations and it is inequitable to subject persons such as the Plaintiffs to the associated costs of ownership of those properties.

It is the position of the Defendant Treasurer Maria Walls, that even with the stipulated facts for the purpose of this motion, as a matter of law these grounds do not support the voiding of the tax sale and as such the causes against her should be dismissed and she should be granted summary judgment in this matter.

Public policy, law and equity require that a forfeiture of property is always to be looked at with suspicion, and with the requirement of absolute accuracy under the law. These protections are for the benefit of the defaulting taxpayer, who stands to lose everything for pennies on the dollar.

Unfortunately for the Plaintiffs, that same rationale cannot be applied to tax sale buyers, who operate for their own benefit and profit and who are presumed to have armed themselves with sufficient due diligence. Equity does not embrace buyer's remorse.

Further, Treasurer in this case had no duty other than conduct the tax sale properly. There was no "... *failure of any action required to be properly performed...*" (SECTION 12-51-150) which would have permitted (not required) the Treasurer to set aside the sale. Plaintiffs have no remedy under the law as to the misinformation (stipulated for purposes of summary judgment only) about assignment or vacation of the sale by the Treasurer.

Although the Plaintiffs' mistake was expensive and regrettable, there is no legal path under which they can prevail in this matter.

I therefore grant summary judgment to the Treasurer on the above and balance of the grounds

By: _____

Judge, Master in Equity

_____, South Carolina

June _____, 2020.