

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

✓ Wendy Reed,

Plaintiff,

vs.

Dorchester County and Thomas
Limchouse,

Defendants.

) IN THE COURT OF COMMON PLEAS

) IN THE FIRST JUDICIAL CIRCUIT

) Case No.: 2014-CP-18-1349

**AMENDED COMPLAINT
(JURY TRIAL REQUESTED)**

The Plaintiff, complaining of the above-named Defendants, would respectfully show this Court:

JURISDICTION AND VENUE

1. This action arises in part under the United States Constitution, 42 U.S.C. § 3604 (b) *et seq.*, 42 U.S.C. § 1983, 42 U.S.C. § 1985 (3), and 42 U.S.C. § 1988 (b) for violation of Plaintiff's civil rights. This court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 as set forth herein and of the state tort claims.

2. Venue is proper in this Court as all of the events occurred in Dorchester County and the parties reside in Dorchester County.

PARTIES

3. Plaintiff is a resident of Dorchester County, South Carolina.

4. Defendant Dorchester County is a political subdivision of the State of South Carolina and is authorized to collect taxes in Dorchester County, notify taxpayers of delinquent taxes, hold delinquent tax sales, sell property at tax sales, and accept funds from a taxpayer to redeem property that was sold at a delinquent tax sale, all pursuant to state law.

5. Upon information and belief, Thomas Limehouse is a resident of Dorchester County and purchased 819 W. Richardson Avenue in Summerville, S.C. after a Dorchester County tax sale in December of 2012. Additionally, Thomas Limehouse purchased 817 W. Richardson Avenue in Summerville, S.C. at a Dorchester County tax sale in December of 2012.

FACTS

6. Plaintiff Wendy Reed is an African American heirs' property owner. Until recently, she owned a percentage interest in real property located at 817 and 819 W. Richardson Avenue in Summerville, South Carolina (hereafter "Property").

7. Plaintiff has a 1/75 interest in this Property through intestate succession and she resides on part of it at 817 W. Richardson Avenue. 819 W. Richardson Avenue is an adjacent empty lot to her residence.

8. Heirs' property owners do not have deeds to their property as their property is passed down to family members without a will.

9. Heirs' property is held by the family descendants as "tenants in common" regardless of where the family members live.

10. The Center for Heirs' Property Preservation is a non-profit organization that attempts to protect and preserve heirs' property.

11. The Center for Heirs' Property Preservation has done a study and created a map indicating there are approximately 5,323 tracts of heirs' property in Dorchester County. This map also has a census-based African American and poverty overlay indicating that a disproportionate amount of these heirs' property tracts are owned by low income African Americans.

12. The fact that most heirs' property owners in Dorchester County are African Americans is a fact that is, or should be, well known to Defendant Dorchester County.

13. After Plaintiff's father died, Plaintiff remitted to the Dorchester County Treasurer payment for all of the property taxes assessed against her Property for eight (8) years.

14. Plaintiff received all of the property tax notices from the Dorchester County Treasurer and the Delinquent Tax Collector that related to this Property for nine (9) years.

15. The fact that Plaintiff was an heirs' property owner was totally irrelevant to Defendant Dorchester County while Plaintiff was timely paying the taxes on the Property for eight (8) years.

16. S.C. Code § 12-60-30 (29) defines a taxpayer as the person responsible for remitting the tax payment.

17. Plaintiff was the family member responsible for paying the taxes for this Property.

18. Per S.C. Code § 12-51-(A) any "grantee from the owner" can redeem property.

19. Plaintiff is a grantee from the owner of this Property.

20. In 2012, Plaintiff was unable to pay the property taxes, and in late 2012 Plaintiff's Property was sold at and after a delinquent tax sale to Defendant Thomas Limehouse.

21. Prior to Plaintiff's Property being sold at the delinquent tax sale, Defendant Dorchester County sent Plaintiff all of the statutorily required notices regarding the delinquent tax sale.

22. After the delinquent tax sale, Defendant Dorchester County also sent all of the requisite notices regarding the redemption period to Plaintiff.

23. Plaintiff had twelve (12) months after the delinquent tax sale to redeem her Property pursuant to state law.

24. Plaintiff attempted four (4) times without success to redeem her Property within the twelve (12) month redemption period.

25. Plaintiff first attempted to pay the delinquent property taxes and penalties by phone and was refused by the Delinquent Tax Collector. Plaintiff then tried to pay the delinquent taxes in person three (3) times. On all four (4) occasions, the Delinquent Tax Collector refused to accept Plaintiff's funds and refused to allow Plaintiff to redeem her Property before December 4, 2013 when the twelve (12) month redemption period expired.

26. Defendant Dorchester County repeatedly told Plaintiff when she tried to pay her taxes and redeem her Property that unless she could prove she was an heir and/or probate the estate, they would not accept her money.

27. Defendant Dorchester County's Attorney stated to Plaintiff's counsel it was a policy of Dorchester County to require proof of ownership before accepting tax payments.

28. Defendant Dorchester County's Attorney told Plaintiff she had to probate her grandmother's estate.

29. Plaintiff's grandmother died more than thirty (30) years ago.

30. In South Carolina, an estate cannot be probated after ten (10) years.

31. Defendant's County Attorney then told Plaintiff only a devisee of her grandmother who was named on a probate court "Devise/Descent" form dated in 1984 could pay the taxes and redeem the Property.

32. Plaintiff's father is listed on the "Devise/Descent" form but Plaintiff's father died in 2004.

33. The Dorchester County Delinquent Tax Collector told Plaintiff to get help from the Center for Heirs' Property Preservation but Plaintiff did not qualify financially for help from this organization.

34. As a practical matter, even if Plaintiff had qualified, she could not have filed a suit and obtained a Court Order establishing her percentage of ownership before the redemption period ran on December 4, 2012.

35. Plaintiff incurred additional monetary penalties during the time Defendant Dorchester County Treasurer refused to accept her tax payment and before the redemption period ran due to Defendant Dorchester County's actions.

36. Upon information and belief, Defendant Dorchester County does not require non-heirs' property owners attempting to redeem property to provide proof of ownership.

37. There is no South Carolina state law requiring property owners to provide proof of ownership before property can be redeemed.

38. On information and belief, Defendant Dorchester County does not require non-heirs' property owners to establish their percentage ownership before redeeming property.

39. There is no South Carolina state law requiring proof of percentage of ownership before property can be redeemed.

40. On information and belief, Defendant Dorchester County does not require non-heirs' property intestate property owners to probate estates before redeeming property.

41. There is no South Carolina state law stating that a property owner who acquired their property intestate cannot redeem property.

42. Upon information and belief, Defendant Dorchester County is the only county in South Carolina that treats heirs' property owners differently than other real property owners.

43. If Plaintiff was not an heirs' property owner, she could have timely redeemed her Property.

44. Upon information and belief, hundreds of African American properties in rural Dorchester County have been sold at Defendant Dorchester County's delinquent tax sales in the last few years.

45. Defendant Dorchester County's actions and lack of action has caused the loss of a significant amount of African American owned property in rural Dorchester County, and has resulted in the wrongful loss of Plaintiff's Property.

46. Defendant Dorchester County were asked by Plaintiff to end their practice and policy of treating heirs' property owners differently from other real property owners and refused.

FIRST CAUSE OF ACTION
(TITLE VIII, Violation of the Fair Housing Act, 42 U.S.C. § 3604(b))

47. Plaintiff incorporates all prior allegations, where not inconsistent, as if fully set forth herein.

48. 42 U.S.C.S. § 3604 (b) prohibits discrimination in the sale of a dwelling or in the provision of services in connection with a sale of a dwelling.

49. Defendant Dorchester County's refusal to permit heirs' property owners to redeem property because they cannot prove ownership is motivated by a discriminatory intent.

50. Defendant Dorchester County's refusal to permit heirs' property owners including Plaintiff to redeem property because they cannot prove ownership has a discriminatory impact by causing African American's to lose their property at a much higher rate than white real property owners as most heirs' property owners are African American.

51. Defendant Dorchester County's policy of treating heirs' property owners trying to redeem their property after a tax sale differently than white property owners trying to redeem their property after a tax sale discriminates against African American heirs' property owners.

52. On information and belief, Defendant Dorchester County have been adhering to this discriminatory policy for several years.

53. Defendant Dorchester County repeatedly directed its staff to refuse to permit Plaintiff to redeem her Property.

54. Defendant Dorchester County discriminated against Plaintiff based on her race when it sold her dwelling at a tax sale and then wrongfully refused her to redeem it.

55. Plaintiff seeks equitable relief and monetary damages caused by the discriminatory acts of Defendant Dorchester County in the sale of Plaintiff's Property, as well as attorney fees and costs.

SECOND CAUSE OF ACTION
(Conspiracy, 42 U.S.C. § 1985 (3))

56. Plaintiff incorporates all prior allegations, where not inconsistent, as if fully set forth herein.

57. Defendant Dorchester County conspired with the Treasurer and the County Attorney to deprive Plaintiff of her Property.

58. Defendant Dorchester County, its Treasurer, and Delinquent Tax Collector caused harm to Plaintiff by refusing to accept her tax payment and allowing her property to be sold to Defendant Thomas Limehouse.

59. Plaintiff has suffered special damages including humiliation and emotional distress due to the loss of her family property and seeks monetary compensation for these emotional distress damages and attorney fees and costs.

THIRD CAUSE OF ACTION
(Violation of Plaintiff's Due Process Rights under the
South Carolina State Constitution)

60. Plaintiff incorporates all prior allegations, where not inconsistent, as if fully set forth herein.

61. Plaintiff should have the same right to redeem property as any other property owner in Dorchester County.

62. Plaintiff has the right to have state law regarding the redemption of real property sold at delinquent tax sales applied to her in the same manner as all other property owners in Dorchester County.

63. Specifically, Plaintiff has the right under S.C. law to pay any delinquent taxes, plus penalties, within twelve (12) months of a delinquent tax sale in order to redeem her Property.

64. Defendant Dorchester County wrongfully deprived Plaintiff of this right based on the fact that she owns heirs' property and on its policy and practice of requiring proof of ownership before allowing heirs' property to be redeemed.

65. Defendant Dorchester County had no procedure available to Plaintiff that would allow her to challenge its interpretation of the law or force it to accept her tax payment.

66. As Plaintiff cannot, as a matter of law, probate an estate that is more than thirty (30) years old, the request that she do so by Dorchester County's County Attorney and Defendant Dorchester County was unreasonable.

67. Plaintiff seeks compensatory damages attributable to the loss of her property and attorney fees and costs.

FOURTH CAUSE OF ACTION
(Denial of Equal Protection under the South Carolina State Constitution)

68. Plaintiff incorporates all prior allegations, where not inconsistent, as if fully set forth herein.

69. Plaintiff, as an heirs' property owner, has been singled out for different treatment than other real property owners in Dorchester County and because of her race.

70. Plaintiff's treatment, specifically Defendant Dorchester County's failure to permit Plaintiff to redeem her Property, is the result of intentional race discrimination.

71. Defendant Dorchester County's treatment of Plaintiff is not permitted by state law and not related to any legitimate County interest.

72. Plaintiff has been damaged by the action and inaction of Defendant Dorchester County and seeks equitable and monetary damages, attorney fees and costs.

FIFTH CAUSE OF ACTION
(Declaratory Judgment)

73. Plaintiff incorporates all prior allegations, where not inconsistent, as if fully set forth herein.

74. Plaintiff seeks a declaratory judgment from this court that the language in S.C. § 12-51-90 which allows "any grantee from the owner" to redeem property includes heirs' property owners.

SIXTH CAUSE OF ACTION
(Injunctive and Equitable Relief)

75. Plaintiff incorporates all prior allegations, where not inconsistent, as if fully set forth herein.

76. Plaintiff respectfully requests this Court:

a. enjoin Defendant Dorchester County from prohibiting heirs' property owners from redeeming property sold at a tax sale;

b. declare the sale of Plaintiff's Property to Defendant Thomas Limehouse null and void and require Defendant Dorchester County to accept Plaintiff's payment of delinquent taxes, less any penalties caused by these Defendants' refusal to previously accept her tax payment;

c. require Defendant Dorchester County to identify those heirs' property owners who have been wrongfully deprived of their property in the same fashion as Plaintiff has in the past five (5) years; and require Defendant Dorchester County to either void those tax sales and require purchasers of such property, including Defendant Thomas Limehouse, to re-convey the Property to Plaintiff and other heirs property owners identified by Dorchester County as harmed by Dorchester County's policy, or pay those heirs' property taxpayers monetary damages for their property losses in an amount to be determined by this Court.

SEVENTH CAUSE OF ACTION
(Failure to allow Redemption)

77. Plaintiff incorporates all prior allegations, where not inconsistent, as if fully set forth herein.

78. Under South Carolina law title to property transfers upon death of a decedent to the decedent's heirs in the absence of testamentary disposition.

79. State law permits a grantee of a property owner to redeem property.

80. Due to Defendant Dorchester County's refusal to accept payment for taxes from Plaintiff and allow her to redeem her Property, Plaintiff lost her Property.

81. Defendant Dorchester County's failure to comply with the tax statutes invalidates this sale and Plaintiff requests this Court rule accordingly and order Defendant Thomas Limehouse to re-convey the Property to Plaintiff.

EIGHTH CAUSE OF ACTION
(Equitable Estoppel)

82. Plaintiff incorporates all prior allegations, where not inconsistent, as if fully set forth herein.

83. Defendant Dorchester County mailed tax notices to Plaintiff and collected tax payments from her for eight (8) years.

84. Defendant Dorchester County should have known that Plaintiff's father and grandparents were deceased when they continually accepted payment of taxes from Plaintiff.

85. Plaintiff reasonably relied upon Defendant Dorchester County's actions when she tried to redeem her property prior to December 4, 2013.

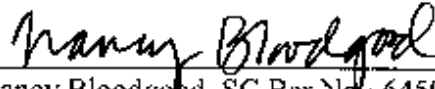
86. Plaintiff was improperly denied the opportunity to pay her taxes and redeem her property by Defendant Dorchester County which resulted in the loss of her property.

87. Defendant Dorchester County should be equitably estopped from refusing to accept payment for taxes from Plaintiff as it previously accepted her payment of taxes for eight (8) years.

WHEREFORE, having fully stated her claims against Defendants, Plaintiff prays for actual damages, emotional distress damages, attorney fees and costs, judgment interest and such other and further legal and equitable relief as this Court deems just and proper.

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