

SOUTH OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF DORCHESTER) FOR THE FIRST JUDICIAL CIRCUIT
WENDY REED,) CASE NUMBER: 2014-CP-18-1349
Plaintiff,)
vs.)
COUNTY OF DORCHESTER AND)
THOMAS LIMEHOUSE,)
Defendants.)

This matter challenging the sale of property identified as TMS # 137-02-10-005 a/k/a TMS # 137-02-10-005.000 a/k/a TMS # 137-02-10-005.000C (hereinafter TMS # 137-02-10-005.000) and located at 817 West Richardson Avenue, Summerville, Dorchester County, South Carolina for delinquent taxes pursuant to S.C. Code Ann. 12-51 *et seq.* was brought by Wendy Reed (hereinafter "Plaintiff"). After careful consideration of the documentary evidence, pleadings and orders filed with the Court, testimony of the parties and other witnesses taken in open court, as well as the briefs and arguments of counsel, this Court finds in favor of Dorchester County and Thomas Limehouse based upon the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The property subject to this suit is identified as TMS # 137-02-10-005.000 and located at 817 West Richardson Avenue, Summerville, Dorchester County, South Carolina (hereinafter "the property"). (Trial testimony of Wendy Reed, Plaintiff; Sidney Jones, the Delinquent Tax Collector for Dorchester County (hereinafter "DTC"); Bonita Daniels, a clerk with the office of DTC; Suzanna Davis, former DTC; and Title to Real Estate by the Tax Collector issued on 29th day of October 2014 by Sidney Jones, DTC).

2. In 2011, the sole owner of record for the property was Elizabeth Perry. (Trial testimony of Wendy Reed, Plaintiff; Sidney Jones, DTC; Bonita Daniels, a clerk with the office of DTC; Suzanna Davis, former DTC; John Frampton, Dorchester County Attorney; Title to Real Estate by the Tax Collector issued on 29th day of October 2014 by Sidney Jones, DTC; and other documentary evidence presented at trial).
3. The property taxes due for 2011 on the property were not paid and delinquent and Dorchester County provided all requisite notices required for the sale and redemption of the property for delinquent property taxes. (Trial testimony of Wendy Reed, Plaintiff; Sidney Jones, DTC; Bonita Daniels, a clerk with the office of DTC; and Amended Complaint, paragraphs 21, 22, and 23).
4. Due to the failure to pay the property taxes in 2011 the property was noticed, posted, and sold pursuant to S.C. Code Ann. §12-51-40, on December 3, 2012. (Trial testimony of Wendy Reed, Plaintiff; Sidney Jones, DTC; Bonita Daniels, a clerk with the office of DTC; Suzanna Davis, former DTC; and Amended Complaint, paragraphs 21, 22, and 23).
5. Pursuant to statute, the period for redemption of the property was 12 months beginning on December 3, 2012 with the sale of the property and the period ended on December 4, 2013. (Trial testimony of Wendy Reed, Plaintiff; Sidney Jones, DTC; and the Title to Real Estate by the Tax Collector issued on 29th day of October 2014 by Sidney Jones, DTC; and Letters from DTC advising parties with an interest in the property sold of the approaching end of the redemption period dated the 25th day of October 2013).
6. Plaintiff stipulated that all requisite notices and postings for the sale and redemption of the property for delinquent taxes was completed properly and in accordance with the statutory requirements. (Amended Complaint, paragraphs 21, 22, and 23).

7. Plaintiff testified that she did not attempt to pay the delinquent taxes and redeem the property prior to the delinquent tax sale being held and the property purchased by Defendant Thomas Limehouse at the delinquent tax sale. (Trial testimony of Wendy Reed, Plaintiff; Sidney Jones, DTC; and Title to Real Estate by the Tax Collector issued on 29th day of October 2014 by Sidney Jones, DTC).
8. Plaintiff testified that she contacted the DTC regarding redeeming the property by calling the DTC twice on the telephone, by going to the DTC on Friday at closing time and returning the following Monday and meeting with Bonita Daniels at the DTC customer counter. (Trial testimony of Wendy Reed, Plaintiff; and Bonita Daniels, a clerk with the office of DTC).
9. The requirements for the redemption of property sold at a delinquent tax sale are contained in S.C. Code Ann. §12-51-90(A). (Trial testimony of Sidney Jones, DTC; and John Frampton, Dorchester County Attorney).
10. During the meeting with Bonita Daniels, Plaintiff offered payment to redeem the property. DTC requested Plaintiff show she had an ownership interest in the property as required by S.C. Code Ann. §12-51-90(A). As Plaintiff did not provide any information about ownership or her relation to the property, payment was not accepted by DTC. (Trial testimony of Wendy Reed, Plaintiff; Bonita Daniels, a clerk with the office of DTC; and Suzanna Davis, former DTC).
11. In the meeting with Bonita Daniels, Plaintiff was advised to seek assistance from the probate court in establishing Plaintiff's eligibility to redeem the property. (Trial testimony of Wendy Reed, Plaintiff; and Bonita Daniels, a clerk with the office of DTC).

12. In addition, Bonita Daniels, in an attempt to assist the Plaintiff in establishing Plaintiff's potential eligibility to redeem the property and to have the property redeemed, provided the plaintiff with a list of individuals who were eligible to redeem the property per the County's records. (Trial testimony of Wendy Reed, Plaintiff; and Bonita Daniels, a clerk with the office of DTC).
13. Plaintiff had no further interaction with DTC and made no further attempts to redeem the property on her own. (Trial testimony of Wendy Reed, Plaintiff; and Bonita Daniels, a clerk with the office of DTC).
14. Plaintiff was not and never has been an owner of record. The title search on the property showed only Elizabeth Perry as the owner of record. (Trial testimony of Wendy Reed, Plaintiff; Bonita Daniels, a clerk with the office of DTC; Sidney Jones, DTC; and Devise/Descent of Real Estate and Description form).
15. Plaintiff, following the advice provided at DTC, went to probate court but did not provide probate court personnel with any information other than the year of her grandmother's and great grandmother's death. She was told it was too long ago to now probate her grandmother's estate or her great grandmother's estate. She was given a form by probate court personnel and was advised to go to the Center for Heirs Property Preservation. (Trial testimony of Wendy Reed, Plaintiff).
16. Plaintiff went to the Center for Heirs Property Preservation and was advised to seek counsel with an attorney. That same day, Plaintiff contacted her current attorney and retained her. (Trial testimony of Wendy Reed, Plaintiff).

17. On October 8, 2013, in response to a letter from Plaintiff's attorney and in a further effort to assist Plaintiff to establish her eligibility to redeem the property, John Frampton, Dorchester County Attorney, e-mailed Plaintiff's attorney a copy of the Devise/Descent of Real Estate and Description form for the property. The e-mail communication to Plaintiff's attorney was copied to DTC. The e-mail stated:

"I do not know the relationship of your client, Wendy Reed, to any of the devisees but as far as the County is concerned any of the named devisees listed on the Devise/Descent of Real Estate and Description form would be eligible to redeem the properties. Give me a call if you would like to discuss this further."

(Trial testimony of John Frampton, Dorchester County Attorney; and e-mail and attachment submitted as evidence).

18. No response was received from Plaintiff or Plaintiff's attorney to the e-mail from John Frampton, Dorchester County Attorney. (Trial testimony of John Frampton, Dorchester County Attorney; and e-mail and attachment Devise/Descent).

19. Despite these repeated attempts to aid the Plaintiff, Plaintiff never advised the DTC who Plaintiff was, did not advise Plaintiff was related to anyone who had an ownership interest in the property, or show how or if Plaintiff was related to anyone who had an ownership interest in the property. (Trial testimony of Wendy Reed, Plaintiff; Bonita Daniels, a clerk with the office of DTC; Sidney Jones, DTC; and John Frampton, Dorchester County Attorney).

20. The inability to know the relationship of Plaintiff to any known owner continued with Plaintiff's failure to include that information in the Complaint or Amended Complaint in this matter. Dorchester County moved to dismiss the action filed by Plaintiff as Plaintiff

lacked standing as Plaintiff did not provide information upon which a determination of Plaintiff's status under S.C. Code Ann. §12-51-90(A) could be made. (Plaintiff's Complaint and first Amended Complaint; Defendant County of Dorchester's Motion to Dismiss for lack of standing filed September 23, 2014 and October 21, 2014; Order denying Defendant's Motion to Dismiss, Permitting Amendment of Complaint and Deferring Plaintiff's Motion for Temporary Injunction filed December 30, 2014 and Amended Order filed March 10, 2015).

21. Plaintiff did not disclose her identity and relationship to the property until required by the Court through the order of The Honorable Carmen T. Mullen which was filed on December 30, 2014 and amended on March 10, 2015¹ stated:

“2. The status of the person attempting to redeem real property from a delinquent tax sale is a specific requirement of §12-51-90(A) S.C. Code Ann. for the redemption of the real property, the Plaintiff must provide the County evidence that the Plaintiff is a member of a qualifying class (“defaulting taxpayer or any grantee from the owner, or any mortgagee or judgment creditor”) within 60 days of this Order.”

(Order denying Defendant's Motion to Dismiss, Permitting Amendment of Complaint and Deferring Plaintiff's Motion for Temporary Injunction filed December 30, 2014 and Amended Order filed March 10, 2015).

22. In January 2015, pursuant to Judge Mullen's Order, Plaintiff finally informed Dorchester County that her father was John Gregg, a grandson of Elizabeth Perry the deceased owner of record for the property. John Gregg was on the Devise/Descent of Real Estate and Description form that was provided by DTC, and John Frampton to Plaintiff on two (2)

¹ The December 30, 2014 order was rescinded and replaced by the March 10, 2015 order. The December 2014 order is mentioned to provide a basis for the January 2015 disclosures by Plaintiff.

separate occasions prior to the expiration of the redemption period. (Trial testimony of Wendy Reed, Plaintiff; Bonita Daniels, a clerk with the office of DTC; John Frampton, Dorchester County Attorney; Plaintiff's Amended Complaint filed January 8, 2015; e-mail with the attached Devise/Descent of Real Estate and Description form; and birth certificate of Wendy Reed, Plaintiff).

23. The Devise/Descent of Real Estate and Description form was obtained by DTC from a title search of a separate piece of property owned by Lucille B. Gregg's property that was sold for delinquent taxes. Lucille Gregg died in an automobile accident and her estate was probated in 1984 but it appears no deeds were issued for the separate pieces of property in the estate. The DTC office discovered within the inventory of real estate a reference to the property and added the devise/descent form of Lucille Gregg's estate to the Elizabeth Perry file. The title search of the property only revealed Elizabeth Perry as the owner of record as no deed of distribution has ever been recorded. (Trial testimony of Sidney Jones, DTC; and Devise/Descent of Real Estate and Description form).

24. On the Devise/Descent of Real Estate and Description form were the following names: The estate of Plaintiff's alleged grandmother, Lucille B. Gregg, was probated in 1984, and the properties were devised to Walter Sr. with a 1/3 interest and Leon C. Gregg, Walter L. Gregg, Jr., James A. Gregg, Orin S. Gregg, John L. Gregg, Kenneth Gregg, Angie E. Gregg, Cornelius Gregg, Annette Gregg, and Jeannette Gregg each receiving a 1/15 interest. Elizabeth Perry was the mother of Lucille B. Gregg. Lucille B. Gregg received the property as an intestate heir of Elizabeth Perry upon Elizabeth's death in 1983. Elizabeth Perry remains the owner of record in the Dorchester County Registry of Deeds as no deed of distribution has ever been recorded. Each person on the list would have been

allowed by Dorchester County to redeem the property. No estate for John Gregg has ever been filed in the Dorchester County Probate Court nor has anyone filed a Petition for Determination of Heirs for John Gregg in the Dorchester County Probate Court. (Trial testimony of Wendy Reed, Plaintiff; John Frampton, Dorchester County Attorney; Sidney Jones, DTC; and Devise/Descent of Real Estate and Description form).

25. Each of the people on the Devise/Descent of Real Estate and Description form are the aunts and uncles of Plaintiff. Two of the individuals listed are deceased. The remaining individuals live in South Carolina. The Plaintiff did not inform any person with whom she dealt at Dorchester County including DTC of her relationship until ordered to do so by the court in December 2014. (Trial testimony of Wendy Reed, Plaintiff).
26. Prior to the expiration of the redemption period, Plaintiff was approached by Leon C. Gregg and his wife concerning the sale and redemption of the property. Leon C. Gregg was eligible to redeem the property and offered to help Plaintiff, but the Plaintiff never responded to the offer of help. (Trial testimony of Wendy Reed, Plaintiff).

CONCLUSION OF LAW

- A. The court has jurisdiction over the parties and the subject matter of this matter. (Findings of fact 1, 2, 3).
- B. The collection of property taxes by payment or by forfeiture and sale of the property by DTC and the redemption of property sold is governed by statute. See S.C. Code Ann. 12-51 *et seq.* (Findings of fact 4, 9).
- C. As admitted by Plaintiff in her Complaint and Amended Complaint, the taxes due in 2011 and 2012 on the property were not paid, delinquent, and Dorchester County properly

provided all requisite notices required for the sale and redemption of the property. (Findings of fact 1, 2, 3, 4, 5).

D. Dorchester County properly advertised and sold the property in the name of Elizabeth Perry who died intestate in 1983. (See S.C. Code Ann. § 12-51-40(f) which states:

“For the purpose of enforcing payment and collection of property taxes when the true owner is unknown because of the death of the owner of record and the absence of probate administration of the decedent’s estate, the property must be advertised and sold in the name of the deceased owner of record.”

(Findings of fact 6, 14, 24).

E. On December 3, 2012, the property located at 817 West Richardson Avenue, Summerville, Dorchester County, South Carolina (TMS # 137-02-10-005.000) was properly sold for delinquent taxes pursuant to S.C. Code Ann. §12-51-40. The ultimate purchaser was Thomas Limehouse. (Findings of fact 1, 2, 3, 4, 5, 6, 7, 14).

F. Pursuant to S.C. Code Ann. § 12-51-90(A), a 12 month period in which to redeem the property which was the period between December 3, 2012 and December 4, 2013. (Findings of fact 4, 5, 7).

G. S.C. Code Ann. §12-51-90(A) requires the person redeeming the property be a member of one of the following four categories: defaulting taxpayer, any grantee from the owner, or any mortgage or judgment creditor. The Plaintiff claims the status of a grantee from the owner, and a defaulting taxpayer. (Findings of fact 14, 22).

H. During the period of redemption, Plaintiff failed to provide the necessary information to Dorchester County that would allow the DTC to fulfill its statutory duties of insuring that

the redeemer of the property was eligible to redeem the property. (Findings of fact 7, 8, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20).

- I. Plaintiff did not disclose her identity and relationship to the property until required by the Court through the order of The Honorable Carmen T. Mullen which was filed on December 30, 2014 and amended on March 10, 2015. (Findings of fact 21, 22).
- J. In January 2015, Plaintiff provided information essential to a determination that she may be eligible to redeem the property under S.C. Code Ann. § 12-51-90(A) as the “defaulting taxpayer” (*Taylor v. Aiken County Assessor*, 402 S.C. 559, 563 (2013) or as “any grantee from the owner.” (Findings of fact 22).
- K. Prior to the end of the redemption period Dorchester County on two separate occasions provided Plaintiff with a list of individuals who were eligible to redeem the property (Devise/Descent of Real Estate and Description form) but there was no response from Plaintiff or indication of Plaintiff’s relationship to any person on the list. (Findings of fact 19, 20, 21, 22).
- L. The information necessary to identify Plaintiff as a person potentially eligible to redeem the property was withheld from Dorchester County until 25 months beyond the sale of the property and 13 months beyond the final date of redemption. (Findings of fact 22).
- M. Prior to Plaintiff filing her Complaint no action was taken by Plaintiff or counsel beyond the one substantive visit to DTC, the single inquiry to the probate court, and the letter from Plaintiff’s attorney to the DTC and Dorchester County Treasurer. The response of John Frampton, Dorchester County Attorney, specifically referencing the persons eligible to redeem the property (Devise/Descent of Real Estate and Description form) and advising

that Plaintiff's relationship to those individuals or the property were not known, did not receive a response. (Findings of fact 17,18, 19).

- N. As a matter of law, without the information that Plaintiff was the daughter of John Gregg and he died intestate, Dorchester County could do nothing under S.C. Code Ann. §12-51-90(A) more to assist Plaintiff to redeem the property. (Findings of fact 9, 21, 22).
- O. It was Plaintiff that failed to pay taxes, failed to respond to the certified notices, failed to probate her father's estate, failed to have the Probate Court make a Determination of Heirs and failed to respond with any other information necessary to determine her eligibility to redeem. (Findings of fact 3, 4, 6, 7, 17, 18, 19, 20, 21).
- P. The right of redemption was not exercised by any eligible person within the statutory time limit. Specifically, Plaintiff failed to provide the information that would make her eligible to exercise a right of redemption within the statutory time limit of one year from the sale on December 3, 2012 and December 4, 2013. (Findings of fact 5, 10, 18, 19, 22).
- Q. As a matter of law, there is nothing contained in the evidence Plaintiff presented that would require voiding of the sale to Thomas Limehouse or that would entitle Plaintiff to monetary relief. (Findings of fact 1 – 26).
- R. As a matter of law, Dorchester County fulfilled all of its statutory duties in the noticing, posting, and sale of the property and in the notice of the approach of the end of the redemption period. (Findings of fact 5, 6).

THEREFORE IT IS ORDERED THAT

Dorchester County properly fulfilled all of its statutory duties and legal obligations in the sale of the property identified as TMS # 137-02-10-005.000 and located at 817 West Richardson Avenue

Summerville, Dorchester County, South Carolina for unpaid and delinquent taxes as set forth above in the Findings of Fact and Conclusion of Law.

Plaintiff failed to prove that there exist any grounds upon which to void the sale of the property or grant monetary relief to the Plaintiff as set forth above in the Findings of Fact and Conclusions of Law.

This matter is concluded in favor of Dorchester County and Thomas Limehouse.

AND IT IS SO ORDERED

The Honorable Edgar W. Dickson
South Carolina First Judicial Circuit

_____, 2019
Charleston, South Carolina



Dorchester Common Pleas

Case Caption: Wendy Reed VS Dorchester County , defendant, et al

Case Number: 2014CP1801349

Type: Order/Other

So Ordered

s/ Edgar W. Dickson #2153