

TRANSCRIPT OF TESTIMONY FOR QUIET TITLE AFTER TAX SALE

THIS MATTER is an action to quiet title pursuant to Sections 12-61-10 through 60 and 15-67-10 through 100, Code of Laws of South Carolina, 1976, as amended. A hearing was held in this matter on the 9th day of August, 1996, before the Roger M. Young, Master-inequity for Charleston County, South Carolina. Present at the hearing was _____, attorney for Plaintiff.

Mr. _____ calls attention to the filing of the Summons and Complaint on _____, in the office of the Clerk of Court of Common Pleas for Charleston County. The file reflects an Affidavit of Service filed _____, with the Charleston County Clerk of Court of Common Pleas evidencing service on the defendant on _____. Also in the Clerk's file is a Consent Order of Reference referring this matter to the Master-in-Equity for Charleston County with finality with any appeal to be directly to the South Carolina Supreme Court and specifically allowing this matter to be heard before the running of the one-hundred twenty (120) period set forth in Rule 40(h), S.C.R.Civ.P.

Mr. _____ calls special attention to the issues of this case which are as follows:

1. That Defendant is a citizen and resident of Charleston County, South Carolina.
2. That the Real Property, which is the subject of this action, is located in the City of Charleston, County of Charleston, State of South Carolina (hereinafter referred to as the "Property").
3. That Defendant neglected to pay the ad valorem taxes on the Property for the tax year 19____ duly levied and assessed against the Property by the political subdivisions of the State of South Carolina legally authorized to assess real property taxes against the Property.
4. That W.O. Thomas, Jr., the County Treasurer of Charleston County, South Carolina, issued a tax execution for the tax year 19____ directed to the Charleston County sheriff or delinquent tax collector of Charleston County against the Defendant, strictly charging and commanding the sheriff or delinquent tax collector to levy by distress and sell so much of the estate of Defendant to satisfy the delinquent ad valorem taxes, assessments, penalties and costs for their collection.
5. That by virtue of the tax executions issued by W. O. Thomas, Jr., for the tax year 19____, the delinquent tax collector of Charleston County did send, via certified mail, return receipt requested - delivery restricted to addressee, proper notice of the sale to Defendant on _____, which notice was received by Defendant on _____.
6. That the delinquent tax collector of Charleston County did serve upon Defendants by publication, all notices of delinquent taxes, assessments, penalties and costs to which she was entitled, in a timely manner, and in compliance with Sections 12-49-210 through 300, Code of Laws of South Carolina, 1976, as amended, on _____, _____, and _____.
7. That on _____, during the usual hours of sale, the delinquent tax collector of Charleston County, after due advertisement, did sell the Property and give receipt to the Charleston County Forfeited Land

Commission, the only bidder at such sale for the sum of \$ _____, as provided in 12-51-55, Code of Laws of South Carolina, 1976, as amended.

8. That prior to the expiration of the twelve (12) month redemption period as set forth in Section 12-51-90, Code of Laws of South Carolina, 1976, as amended, the tax collector provided to Defendant all notices to which she was entitled, in a timely manner, in compliance with Sections 12-51-120, Code of Laws of South Carolina, 1976, as amended, by mailing notice, via certified mail, return receipt requested - delivery restricted to addressee, on _____, to Defendant notifying her that the Property had been sold for taxes and that if it was not redeemed by paying taxes, assessments, penalties, coats and eight percent (81) interest on the bid price in the total amount of \$ _____ on or before _____, that a tax title to the Property would be delivered to the successful bidder at the tax sale, which notice was received by Defendant on June 3, 1995.

9. That no one redeemed the Property during the twelve (12) month redemption period beginning on _____, the date of the aforementioned sale, and ending on _____, as provided in Section 12-51-90.

10. That the aforementioned execution and sale of the Property was proper in that it complied with Sections 12-49-10 through 300 and 12-51-10 though 170, Code of Laws of South Carolina, 1976, as amended, in all material respects.

11. That by deed dated _____, and recorded on _____, in the office of the Register of Mesne Conveyance for Charleston County, South Carolina, in Book _____, at Page _____, Walter T. Martin, the Delinquent Tax Collector for Charleston, South Carolina, did convey the Property to the Charleston County Forfeited Land Commission.

12. That the duly assessed ad valorem taxes for the tax year 19____, together with all assessments, penalties and costs, constituted a first lien in all cases whatsoever upon the Property, which first lien attached at the beginning of the tax year 19____, as provided in Section 12-49-10, Code of Laws of South Carolina, 1976, as amended, and that the aforementioned tax lien was senior to and took priority over any mortgage liens on the Property, and that mortgage liens, if any, of Defendant was junior to and subordinate to the aforementioned tax lien.

13. That by virtue of Defendant's failure to redeem the Property and by virtue of the conveyance of the Property to the Charleston County Forfeited Land Commission by the delinquent tax collector of Charleston County, any and all interest Defendant had in and to the Property has been extinguished.

14. That on _____, Plaintiff, as highest bidder, purchased the Property from the Charleston County Forfeited Land Commission at a Charleston County Forfeited Land Commission Auction for the sum of \$ _____.

15. That by deed dated _____, the Charleston County Forfeited Land Commission conveyed title the Property to Plaintiff, which deed was recorded in the Office of the Register of Mesne Conveyance for Charleston County on _____, in Deed Book _____, at Page _____.

16. That Plaintiff is entitled to judgment terminating any and all interest Defendant, her spouse, heirs, devisees, successors, assigns or any one or anything in the whole world claiming under them, irrespective of the nature of that interest, have in and to the Property and barring any future claims they may assert.

BY _____: I call _____ to the stand.

After being duly sworn, the following testimony was offered by _____

QUESTIONED BY MR. _____:

Q. Please state your full name for the Court.

A. _____.

Q. Are you familiar with the _____, Inc.?

A. Yes.

Q. What is the _____, Inc.?

A. It is a corporation.

Q. In what state is it incorporated?

A. South Carolina.

Q. What relationship, if any, do you have to the _____, Inc.?

A. I am its President and Chairman of its Board of Directors. I also own one-seventh of the issued and outstanding shares of stock in the _____, Inc.

Q. Why is the _____, the Plaintiff in this case?

A. It holds title, in fee simple, to the real property which is the subject of this action.

Q. How did the _____, Inc., acquire its interest in the subject real property?

A. The subject real property was conveyed to the _____, Inc., by the Charleston County, South Carolina, Forfeited Land Commission.

Q. Do you recognize this document?

A. Yes.

Q. What is it?

A. It is a copy of a deed to the Charleston County, South Carolina, Forfeited Land Commission dated _____, from Walter T. Martin, the delinquent tax collector for Charleston County, South Carolina. It was recorded on _____, in the office of the Register of Mesne Conveyance for Charleston County, in book _____, at page ____.

Q. What property is being conveyed to the Charleston County, South Carolina, Forfeited Land Commission by this deed?

A. A piece of property, together with the house located thereon, located in the City of Charleston, County of Charleston, State of South Carolina, more commonly known and designated as _____. Its Charleston County Tax Map Number is _____.

BY Mr. _____: I now offer this copy of the deed into evidence as Plaintiff's Exhibit 1.

BY THE COURT: Received into evidence without objection the copy of the deed marked Plaintiff's Exhibit 1.

Q. How is it that the _____, Inc., acquired the real property which is the subject of this action?

A. It purchased it at a Charleston County Forfeited Land Commission Sale.

Q. Tell the Court a little bit about the sale. What type of sale was it?

A. It was a public auction.

Q. How did you learn about the sale?

A. From the Newspaper. There were adds in the Post Courier, the local Charleston daily newspaper advertising the sale. While I do not remember when the adds were run, I do remember that there were several of them which ran on different days.

Q. When was this tax sale?

A. _____.

Q. Who conducted the _____, Forfeited Land Commission Sale?

A. Charlie C. Lybrand, the Charleston County RMC.

Q. Did Mr. Lybrand open this tax sale up to the public?

A. Yes. There were many other people there at the time the _____, Inc., purchased

the property.

Q. Did the _____, Inc., have to bid on the property?

A. Yes.

Q. How much did it pay for the property?

A. It paid \$_____ dollars for the property.

Q. Did the _____, Inc., in fact pay the Charleston County Forfeited Land Commission \$_____ dollars for the property?

A. Yes. The _____, Inc., gave it a certified check for \$_____ dollars on _____, as is required.

Q. Do you recognize this document?

A. Yes.

Q. What is it?

A. It is a copy of the receipt the Charleston County Forfeited Land Commission gave me on _____, when I paid it the \$_____ dollars for the real property which is the subject of this action.

BY MR. _____: I now offer this copy of the receipt into evidence as Plaintiff's Exhibit 2.

BY THE COURT: Received into evidence without objection the copy of the receipt marked Plaintiff's Exhibit 2.

Q. Do you know who owned either parcel of real property prior to _____?

A. I believe it was the defendant, _____. At least that is who owned it according to the Records in the Charleston County RMC Office.

BY MR. _____: Your Honor, I have no further questions of this witness.

BY MR. _____: I now call W. O. Thomas, Jr., to the stand.

After being duly sworn, the following testimony was offered by W. O. Thomas, Jr.

QUESTIONED BY MR. _____:

Q. Please state your full name for the court.

A. W. O. Thomas, Jr.

Q. Mr. Thomas, are you employed?

A. Yes.

Q. Where?

A. I work for Charleston County Government.

Q. What is your position with the Charleston County Government?

A. I am the Charleston County Treasurer.

Q. Were you the Charleston County Treasurer in 19__?

A. Yes I was.

Q. Have you been the Charleston County Treasurer since 19__?

A. Yes I have been.

Q. What are your duties and responsibilities as the Charleston County Treasurer?

A. I have numerous duties and responsibilities as Treasurer, but my principal duties and responsibilities relate to the collection of taxes levied and assessed by Charleston County and the collection of certain taxes and assessments levied by the various political subdivisions of the State of South Carolina located within the border of Charleston County.

Q. Would that include the collection of county ad valorem taxes on real property?

A. Yes.

Q. Would that also include the collection of ad valorem taxes on real property for the various political subdivisions of the State of South Carolina located within the borders of Charleston County?

A. Yes.

Q. Mr. Thomas, as Charleston County Treasurer, would it be your duty and responsibility to collect the ad valorem taxes on that parcel of real property located in Charleston, South Carolina, more commonly known and designated in the present City of Charleston numbering system as _____ and known and designated on the Charleston County tax maps as parcel number _____?

A. Yes.

Q. Do you know who owned the aforementioned real property prior to _____?

A. According to my records a _____.

Q. Do you know whether the ad valorem taxes were paid on the aforementioned property for the tax year 19__?

A. According to my records, the ad valorem taxes were not paid on the property for the tax year 19__.

Q. Do you know whether the ad valorem taxes were duly levied and assessed against the aforementioned property for the 19__ tax year by political subdivisions of the State of South Carolina possessing the legal authority to do so?

A. Yes, I do. The ad valorem taxes were duly levied and assessed against the property for the 19__ tax years by political subdivisions of the State of South Carolina which possessed the legal authority to do so.

Q. What, if anything, did you do as a consequence of the failure of anyone to pay the ad valorem taxes on the subject real property for the 19__ tax year?

A. I issued a tax execution for the 19__ tax year directed to either the Charleston County Sheriff or the Charleston County Delinquent Tax Collector, instructing them to levy by distress and sell so much of the property as was necessary to satisfy the delinquent taxes, assessments, penalties and costs for their collection.

Q. Do you recognize this document?

A. Yes.

Q. What is it?

A. It is a copy of the tax execution I issued against the property known and designated on the Charleston County tax maps as property number _____ for failure to pay ad valorem taxes on the same for the 19__ tax year.

BY MR. _____: I now offer this copy of the tax execution into evidence as Plaintiff's Exhibit 3.

BY THE COURT: Received into evidence without objection the copy of the tax execution marked Plaintiff's Exhibit 3.

BY MR. _____: Your Honor, I have no further questions of this witness.

BY MR. _____ I now call Mary M. Scarborough to the stand.

After being duly sworn, the following testimony was offered by MARY M. SCARBOROUGH.

QUESTIONED BY MR. _____:

Q. PLEASE state your full name for the Court.

A. Mary M. Scarborough.

Q. Ms. Mary M. Scarborough, are you employed?

A. Yes.

Q. Where?

A. I work for Charleston County government.

Q. What is your position with the Charleston County government?

A. I am the Delinquent Tax Collector.

Q. How long have you held that position?

A. For several months.

Q. What did you do before that?

A. I worked for the Charleston County Delinquent Tax Collector's Office.

Q. How long have you been with the Charleston County Delinquent Tax Collector's Office?

A. Since 1979.

Q. What were your duties and responsibilities as the Charleston County Delinquent Tax Collector?

A. I had numerous duties and responsibilities as the Delinquent Tax Collector, but my principal duties and responsibilities related to the collection of delinquent taxes, assessments and penalties levied and assessed by Charleston County and the collection of certain delinquent taxes, assessments and penalties levied by the various political subdivisions of the State of South Carolina located within the borders of Charleston County.

Q. Would that include the collection of delinquent county ad valorem taxes on real property?

A. Yes.

Q. Would that also include the collection of delinquent ad valorem taxes on real property for the various

political subdivisions of the State of South Carolina located within the borders of Charleston County?

A. Yes.

Q. How was it that the Charleston County Delinquent Tax Collector's Office typically got involved with the collection of delinquent ad valorem taxes on a specific parcel of real property?

A. Ordinarily we received a tax execution directing our office to levy by distress and sell so much of a parcel of real property on which the ad valorem taxes were delinquent.

Q. Do you recognize Plaintiff's Exhibit 3?

A. Yes.

Q. What is it?

A. It is a copy of a tax execution issued by W. O. Thomas, Jr., the Charleston County Treasurer, directing the Charleston County Delinquent Tax Collector to levy by distress and sell that certain parcel of real property known and designated on the Charleston County tax maps as property number _____, as is necessary to satisfy the delinquent taxes, assessments, penalties and costs for their collections on that property.

Q. Have you seen Plaintiff's Exhibit 5 before?

A. Yes.

Q. Can you please tell the Court how you came to see it?

A. It was delivered to the Charleston County Delinquent Tax Collector's Office shortly after it was issued by W. O. Thomas, Jr., back in 19__.

Q. So the Charleston County Delinquent Tax Collector's Office has had a copy of this document in its possession since that time?

A. Yes.

Q. Do you know who owned the real property which is the subject of this action in 19__?

A. According to the records in the Charleston County RMC Office, the property was owned by _____.

Q. Did the Charleston County Delinquent Tax Collector's Office mail notice to _____ before _____, notifying her of the delinquent property taxes penalties, assessments and costs and further notifying her that if the taxes, penalties, assessments and costs are not paid, the property must be advertised and sold to satisfy the delinquency?

A. Yes.

Q. To what address did it send the notice?

A. The Notice was sent to _____, Charleston, South Carolina 294____, which I believe is her home address, at least that is what our records indicate.

Q. Do you recognize this document?

A. Yes.

Q. What is it?

A. It is a copy of the notice the Charleston County Delinquent Tax Collector's Office sent to _____ notifying her of the delinquent property taxes, penalties, assessments and costs and further notifying her that if the taxes, penalties, assessments and costs are not paid, the property must be advertised and sold to satisfy the delinquency.

BY MR. _____: I now offer this copy of the notice into evidence as Plaintiff's Exhibit 4.

BY THE COURT: Received into evidence without objection the copy of the notice marked Plaintiff's Exhibit 4.

Q. Did anyone thereafter pay the delinquent taxes, penalties, assessments and costs on the subject real property?

A. No.

Q. What, if anything, did you do next?

A. The Charleston County Delinquent Tax Collector's Office sent out another notice on _____, to _____ via certified mail, return receipt requested - delivery to addressee only, specifying that if the taxes, assessments, penalties and costs were not paid on or before _____, that the property would be duly advertised and sold for delinquent property taxes, assessments, penalties and costs.

Q. To what address was this notice sent?

A. To _____'s home address, _____, Charleston, South Carolina 294____.

Q. Was that certified letter ever picked up?

A. Yes. According to the records of the Charleston County Delinquent Tax Collector's Office, it was received by _____ on _____.

Q. Do you recognize this document?

A. Yes.

Q. What is it?

A. It is copy the notice the Charleston County Delinquent Tax Collector's Office sent out on _____, to _____ via certified mail, return receipt requested delivery to addressee only, specifying that if the taxes, assessments, penalties and costs were not paid on or before _____, that the property would be duly advertised and sold for delinquent property taxes, assessments, penalties and costs together with a copy of the return receipt that I believe was signed by _____ evidencing the fact that she received the notice on _____.

BY MR. _____: I now offer this copy of the notice dated _____, and the copy of the return receipt dated _____, into evidence as Plaintiff's Exhibit 5.

BY THE COURT: Received into evidence without objection the copy of the notice dated _____, and the return receipt dated _____, marked Plaintiff's Exhibit 5.

Q. What, if anything, did you do then?

A. The Charleston County Delinquent Tax Collector's Office advertised both properties for sale at a public auction. The advertisements were placed in the Post and Courier, the local Charleston, newspaper.

Q. What did the advertisements say?

A. Well, they were entitled "Delinquent Tax Sale" and included the delinquent taxpayers' names and the tax map numbers.

Q. When did the Charleston County Delinquent Tax Collector's Office run these advertisements?

A. The advertisements were run on _____, _____, and _____.

Q. Did anyone then come in and pay the taxes, assessment-, penalties and costs after the Charleston County Delinquent Tax Collector's Office advertised the property for sale?

A. No.

Q. What, if anything, did the Charleston County Delinquent Tax Collector's Office do next?

A. It sold the property at a public auction held on _____, during the usual hours of sale.

Q. To whom did it sell the subject real property?

A. It sold the property to the Charleston County Forfeited Land Commission, since no one bid on the property.

Q. How much did the Charleston County Forfeited Land Commission pay for the real property which is the subject of this action?

A. It paid \$_____. This was the total amount of the delinquent taxes, assessments, penalties and costs for their collection due on the property at that time.

Q. Did the Charleston County Delinquent Tax Collector's Office give the Charleston County Forfeited Land Commission a deed to the property at that time?

A. No.

Q. Why not?

A. Because there is a one year redemption period in which the taxpayer has the right to redeem his property before the Charleston County Delinquent Tax Collector's Office can give the successful bidder a deed.

Q. Did anyone redeem the subject real property during the one year redemption period?

A. No.

Q. Did anyone attempt to redeem the subject real property during the one year redemption period?

A. No.

Q. Did the Charleston County Delinquent Tax Collector's Office ever give _____ notice that she had the right to redeem the subject real property?

A. Yes.

Q. What type of notice did it give her?

A. It sent a notice to _____ on _____, via certified mail, return receipt requested - delivery to addressee only, advising her that the property had been sold for taxes and if it was not redeemed by paying taxes, assessments, penalties, costs and eight percent interest on the bid price on or before _____, that a tax title would be delivered to the successful purchaser, who in this case was the Charleston County Forfeited Land Commission.

Q. To what address did it send the notice?

A. It sent the notice to _____'s home address, _____ Street, Charleston, South Carolina 294____.

Q. Was the notice picked up?

A. Yes. Again, according to the records of the Charleston County Delinquent Tax Collector's Office, the letter was received by _____ on _____.

Q. Do you recognize this document?

A. Yes.

Q. What is it?

A. It is copy the notice the Charleston County Delinquent Tax Collector's Office sent to _____ on _____, via certified mail, return receipt requested - delivery to addressee only, advising her that the property had been sold for taxes and if it was not redeemed by paying taxes, assessments, penalties, costs and eight percent interest on the bid price on or before _____, that a tax title would be delivered to the successful purchaser together with a copy of the return receipt that I believe was signed by _____ evidencing the fact that she received the notice on _____.

BY MR. _____: I now offer this copy of the notice and the copy of the return receipt dated _____, into evidence as Plaintiff's Exhibit 6.

BY THE COURT: Received into evidence without objection the copy of the notice and the return receipt dated _____, marked Plaintiff's Exhibit 6.

Q. What, if anything, did the Charleston County Delinquent Tax Collector's Office do next?

A. It issued a deed to the property to the Charleston County Forfeited Land Commission.

Q. When was the deed issued?

A. _____ 19 ____.

Q. Was that deed ever recorded?

A. Yes.

Q. Where?

A. In the Office of the Register of Mesne Conveyance for Charleston County, South Carolina, in Deed Book _____, at Page _____.

Q. When was that deed recorded?

A. On _____.

Q. Do you recognize this document?

A. Yes.

Q. What is it?

A. It is a copy of the deed dated _____, and recorded on _____, in the Office of the Register of Mesne Conveyance for Charleston County, South Carolina, in Deed Book _____, at Page _____, conveying title to the property to the Charleston County Forfeited Land Commission.

Q. Who is the grantor in this deed?

A. Walter T. Martin, who was the Charleston County Delinquent Tax Collector at the time the title to the property was transferred to the Charleston County Forfeited Land Commission.

Q. In what capacity did he convey the property to the Charleston County Forfeited Land Commission?

A. In his capacity as the Charleston County Delinquent Tax Collector.

BY MR. _____: I now offer this copy of the deed into evidence as Plaintiff's Exhibit 7.

BY THE COURT: Received into evidence without objection the copy of the deed marked Plaintiff's Exhibit 7.

BY MR. _____: Your Honor, I have no further questions of this witness.

BY MR. _____: Your Honor, this completes Plaintiff's case and the Plaintiff rests.

PERSONALLY APPEARED BEFORE ME, _____, of _____ Street, Charleston, South Carolina 294_____, who first being duly sworn, deposes and saith that the foregoing is a true and correct transcript of his testimony in this matter.

FURTHER DEPONENT SAITH NOT!

SWORN TO AND SUBSCRIBED before me this ___day of _____, 19____, at Charleston, South Carolina.

Notary Public for South Carolina My Commission Expires:

PERSONALLY APPEARED BEFORE ME, W. O. Thomas, Jr., of 2 Courthouse Square, Charleston, South Carolina 29401, who first being duly sworn, deposes and saith that the foregoing is a true and correct transcript of his testimony in this matter.

FURTHER DEPONENT SAITH NOT!

W. O. Thomas, Jr.

SWORN TO AND SUBSCRIBED before me this ___day of , 1996, at Charleston, South Carolina.

Notary Public for South Carolina My Commission Expires:

PERSONALLY APPEARED Before me, Mary M. Scarborough, of 2 Courthouse Square, Charleston, South Carolina 29401, who first being duly sworn, deposed and saith that the foregoing is a true and correct transcript of her testimony in this matter.

FURTHER DEPONENT SAITH NOT!

Mary M. Scarborough

Respectfully submitted,