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SUPREME COURT OF ALABAMA

SPECIAL TERM, 2023

SC-2022-1034

Rubio Maria D. Enriquez Espinosa

v.

Justin Chamblin

**Appeal from Jefferson Circuit Court
(CV-20-902662)**

MITCHELL, Justice.

Jefferson County ("the County") assessed property taxes on Justin Chamblin's property ("the property") in the name of the property's prior

owner. When those taxes went unpaid, the County sold the property at a tax sale. After Rubio Maria D. Enriquez Espinosa obtained a tax deed to the property and took possession of it, Chamblin filed an action in the Jefferson Circuit Court asking the court to declare the tax sale void. Following a bench trial, the circuit court held the tax sale invalid and granted Chamblin possession of the property. Espinosa appealed. We affirm.

Facts and Procedural History

On October 1, 2015, the County assessed the property in the name of "Lula Wood," the property's owner at that time. Three months later, Wood conveyed the property to Chamblin, who recorded the conveyance soon thereafter.

On October 1, 2016, the County assessed the property in the name of "Lula Wood c/o Justin Chamblin." The taxes went unpaid. For three weeks in April 2017, the County published a tax-sale notice in a newspaper, which read:

"WOOD LULA
MUN-CODE: 32
PARCEL-ID: 22-00-26-1
016-007.000
LOT 18 BLK 7 DRUID
HILLS

TAX AND COST: \$525.75"

At the tax sale, the State of Alabama purchased the property, which it then sold to Entrepreneur Empowerment, LLC, in October 2017. Just over a year later, Entrepreneur Empowerment sold the property to Espinosa. She later acquired a tax deed for the property and took possession of it.

Chamblin sued Espinosa, making several claims for damages and a claim for declaratory relief.¹ The circuit court held a bifurcated bench trial. In the first phase, the circuit court considered "whether the tax sale to the State of Alabama by the Jefferson County Tax Collector was void for failing to give [Chamblin] actual or constructive notice of the tax sale." The circuit court made three conclusions: (1) "[t]here were significant errors in the assessing of [Chamblin's] property from the prior owner, [Wood], by [the County], which failed to give [Chamblin] actual notice of the tax sale"; (2) "[t]here were significant errors in the publication notice in [the newspaper], dated April 5, 2017, listing the owner as [Wood] and not [Chamblin] in the listing," and "[t]his error failed to provide

¹Chamblin later amended his complaint to assert claims against other defendants, but all of those claims were dismissed or resolved in favor of the defendants and are not relevant to this appeal.

[Chamblin] constructive notice of the tax sale"; and (3) "[n]o evidence was presented ... to refute [Chamblin's] claim that [the County] failed [to] compl[y] with Ala. Code § 40-10-1, et seq., in providing notice of the tax sale to [Chamblin]." The circuit court therefore held that the tax sale was void from the outset and awarded possession of the property to Chamblin. Espinosa filed a motion to vacate or to certify the judgment as final under Rule 54(b), Ala. R. Civ. P., which the circuit court denied. The circuit court then held a bench trial on the remaining issues and entered a final judgment in favor of Chamblin, awarding him \$114 on his other claims.

Espinosa appealed on the sole issue of whether the tax sale was valid.²

Standard of Review

"When a judge in a nonjury case hears oral testimony, a judgment based on findings of fact based on that testimony will be presumed correct and will not be disturbed on appeal except for a plain and palpable error."

²Espinosa argues in the alternative that, "should the Court find the tax sale invalid, [she] is entitled to her expenses and costs for all improvements made by her and taxes, and a lien against the subject property in such amount." Espinosa's brief at 10. But she does not support or develop this argument in any way, and thus we do not address it. See Dykes v. Lane Trucking, Inc., 652 So. 2d 248, 251 (Ala. 1994).

Allstate Ins. Co. v. Skelton, 675 So. 2d 377, 379 (Ala. 1996). "[W]here the facts before the trial court are essentially undisputed and the controversy involves questions of law for the court to consider, the court's judgment carries no presumption of correctness." Id.

Analysis

Espinosa argues that the circuit court erred by invalidating the tax sale. She contends that, because the County properly assessed the property in Wood's name, publication of notice in Wood's name sufficed. We disagree.

It is true that the County validly assessed the property in Wood's name. The County may assess property "to the party last assessing the same, or to the owner of record." § 40-7-1, Ala. Code 1975. And "[t]he failure of the tax assessor or other assessing official to assess said property to the true owner [does] not invalidate the assessment." Id. Therefore, as Espinosa states, "the property taxes [assessed] on October 1, 2016, were properly assessed in the name of the owner on record as of October 1, 2015, Ms. Lula Wood." Espinosa's brief at 12.

But the validity of a tax sale requires more than a valid assessment -- it also requires notice to the property owner. While this

Court recently divided on what all is necessary to constitute a valid tax sale, there is no question that notice to the property owner is a requirement. See Stiff Equivest Fin., LLC, 325 So. 3d 738, 739 (Ala. 2020) (main opinion) ("A tax sale is void unless there is evidence of compliance with all the requirements of the tax-sale statutes."); id. at 746 (Bryan, J., dissenting) ("Those substantial, more fundamental errors [that void a tax sale] include failure to give notice to the property's owner."); see also Almon v. Champion Int'l Corp., 349 So. 2d 15, 17 (Ala. 1977); State ex rel. Gallion v. Graham, 273 Ala. 634, 636-37, 143 So. 2d 810, 812 (1962).

Almon is instructive. In that case, Mr. and Mrs. J.L. Truss ("the Trusses") owned a piece of property, which they conveyed to an unnamed grantee in September 1947. Id. at 16. Nonetheless, on October 1 of that year, the State assessed the property in the name of J.L. Truss. Id. Two years later, after the Trusses had failed to pay the taxes, the State purchased the property at a tax sale. Id. An action was initiated to quiet title to the property, and the trial court entered a judgment holding that the tax sale was void. Id. This Court affirmed. Id. at 17. In doing so, the Court observed that the sale was "based on an assessment made to

the Trusses after all right and title to the property ha[d] been conveyed" to the grantee and that "[n]otice of [the] sale was given to the Trusses and not the Trusses' grantee who was the title holder at the time of the tax sale." Id. The Court further explained that, "[w]here taxes are assessed to one who has no interest in the property, a subsequent sale of the property for nonpayment of taxes is void because ... the true owner would receive no notice of the proceedings against his property." Id. Accordingly, the Court held that the "sale was invalid and conveyed no title." Id.

Here, as in Almon, the tax sale was based on an assessment made to the prior owner -- Wood -- after Wood had conveyed the property to the true owner -- Chamblin. Espinosa does not argue that, despite omitting Chamblin's name, the notice published in the newspaper gave him notice of the sale. Rather, Espinosa contends that the published notice sufficed to uphold the tax sale because "Wood was alive at the time the notice was given and was the proper person to whom the property was assessed." Espinosa's brief at 14. That is, according to Espinosa, publication of notice in a living prior owner's name per se validates a tax sale, regardless of whether that publication gave notice to the true owner.

Espinosa's argument, however, is flatly contradicted by Almon, which expressly held that a tax sale was void under these circumstances because "the true owner would receive no notice of the proceedings against his property." 349 So. 2d at 17. And Espinosa points to no applicable precedent that cuts against Almon. For these reasons, Espinosa's appeal is without merit, and the judgment is due to be affirmed.

Conclusion

Because Espinosa has failed to show that the circuit court erred by entering judgment in favor of Chamblin, we affirm.

AFFIRMED.

Parker, C.J., and Shaw, Wise, and Cook, JJ., concur.

Bryan, Sellers, Mendheim, and Stewart, JJ., concur in the result.