

IN RE: 1989 RETURN OF SALE OF TAX CLAIM BUREAU OF FRANKLIN COUNTY, PA AS TO MOSTAFA KORANGI ISFAHANI PROPERTY,

C.P. Franklin County Branch, Misc. Doc. Vol. Z, Page 360

Notice - Certified Mail - Signature on Return Receipt

1. All three types of notice are required for a valid tax sale; if any is defective the sale is void.
2. A second notice is required to each owner who did not acknowledge the first notice.
3. The burden of examining the return receipt cards, to insure that notices are acknowledged by the person to whom they are sent, is on the Tax Claim Bureau.
4. Where notice is signed by another person other than the addressee, another notice is required and absent that notice, the sale is void.

Dino A. Ross, Esq., Counsel for Mostafa Korangi Isfahani

John McD. Sharpe, Jr., Esq., Counsel for Franklin County Tax Claim Bureau

George S. Glen, Esq., Counsel for Martin J. Curfman, William R. Curfman and Delvin R. Zullinger

OPINION AND ORDER

Keller, P.J., March 9, 1990:

On September 11, 1989, the Franklin County Tax Claim Bureau sold property located in Guilford Township, Franklin County, Pennsylvania, designated for tax purposes as Parcel 10-D-5-5. Title to the Property is held in the name of Mostafa alone and is recorded in the deed records of Franklin County, Deed Book Volume 929, Page 173. The Property was sold to Martin J. Curfman, William R. Curfman, and Delvin R. Zullinger for the upset price of \$2,544.94. On October 27, 1989, Mostafa timely filed Exceptions and Objections to the Tax Sale, asserting that notice of the tax sale as required by the Real Estate Tax Sale Law, 72 P.S. §5860.101 et seq, was inadequate and that the tax sale should be set aside.

A hearing was held on December 12, 1989. Briefs were submitted on January 15, 1990. This case is now ripe for disposition.

FINDINGS OF FACT

1. Mostafa Korangi Isfahani is the owner of property located in Guilford Township, Franklin County, designated for tax sale purposes as parcel 10-D-5-5.
2. Title to the property is held in the name of Mostafa Korangi Isfahani alone.
3. The notice of the Tax Sale was sent by certified mail, restricted delivery. It was addressed to Korangi Isfahani Mostafa, 9484 Sevenlocks Road, Bethesda, Maryland, 20817 on or about June, 1988.
4. There was no writing filed with the Postal Service specifically authorizing a person to receive restricted delivery mail for Korangi.
5. Parvaneh Khosravi Korangi is the wife of Mostafa Korangi Isfahani, and she resides at 9484 Sevenlocks Road, Bethesda, Maryland, 20817.
6. Mostafa Korangi Isfahani has not been in the United States since sometime in 1986.
7. The signature on the return receipt card was not that of Mostafa Korangi Isfahani.
8. The Tax Claim Bureau knew that the signature on the return receipt card was not the name of "Mostafa Korangi Isfahani" or "Korangi Isfahani Mostafa".
9. The Tax Claim Bureau did not know whose name was on the return receipt card.
10. The Tax Claim Bureau did not undertake any additional notification efforts to discover the whereabouts of Korangi Isfahani Mostafa.
12. The signature on the postal return receipt is not that of Parvaneh Khosravi Korangi nor the signature of anyone else who resides at 9484 Sevenlocks Road, Bethesda, Maryland, 20817.

DISCUSSION

The presumption of regularity of the acts of public officers applies to tax sales. This presumption exists until the contrary appears. By petitioner, Mostafa Korangi Isfahani, filing exceptions to the tax sale of his property averring that the statutory notice provisions were not complied with, he created a contrary appearance. We therefore find the Bureau bears the burden of proving

compliance with the statutory notice provisions. *Ali vs. Montgomery County Tax Claim Bureau*, Pa. Commw., 557 A.2d 35 (1989).

All three types of notice, namely publication, certified mail, and posting are required for a valid tax sale; if any is defective the sale is void. *Financial Management Professional Corporation v. Tax Claim Bureau of Monroe County*, Pa. Commw., 550 A.2d 601 (1988).

72 P.S. §5860.602(e)(1) provides:

At least thirty (30) days before the date of the sale, by United States certified mail, restricted delivery, return receipt requested, postage prepaid, to each owner as defined by this act.

72 P.S. §5860.602(e)(2) provides:

If return receipt is not received from each owner pursuant to the provisions of clause (1), then, at least ten (10) days before the date of the sale, similar notice of the sale shall be given to each owner who failed to acknowledge the first notice by United States first class mail, proof of mailing, at his last known post office address by virtue of the knowledge and information possessed by the bureau, by the tax collector for the taxing district making the return and by the county office responsible for assessments and revision of taxes. It shall be the duty of the bureau to determine the last post office address known to said collector and county assessment office.

The above section requires that a second notice must be mailed to each owner who failed to acknowledge the first notice. Since Mostafa Korangi Isfahani was an owner who did not acknowledge the first notice, it was then the duty of the Tax Claim Bureau to send him a second, Section 602(e)(2), notice. Section 602(e)(2) requires a second notice to be sent to any owner who fails to knowledge the first notice.

We conclude that a return receipt for the first mailing, not bearing the name of the one to whom it was addressed but that of another person, identifies the addressee as one who had not acknowledged the notice. The record is devoid of evidence that Mostafa Korangi Isfahani ever received proper notice of the tax sale.

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BAR NEWS ITEM

The Pennsylvania Association of Criminal Defense Lawyers will hold the 1990 Annual Meeting and CLE Seminar, "Murder to Metaphysics", October 19-21, at Shawnee Inn, Shawnee-On-Delaware, PA. The president's dinner features Michael Kennedy, Esq., of New York. For information call 215-566-8250.

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RECOMMENDATIONS NEEDED FOR
PENNSYLVANIA LEGAL OPINIONS DRAFTING GROUP

On January 25 and 26, 1991, the Corporation, Banking and Business Law Section of the Pennsylvania Bar Association is sponsoring a working conference to formulate standards for Third Party Legal Opinions delivered by Pennsylvania counsel. The drafting group is to be comprised of approximately 50 lawyers from small, medium and large firms in Pennsylvania. The conference is by invitation only. The conference will be held in Pittsburgh at the Airport Marriott commencing on Friday, January 25, 1991 at 6:30 p.m. and concluding on Saturday, January 16, 1991 at 4:00 p.m. The cost to the participants will consist only of overnight lodging and transportation to and from the conference. Should you be interested in participating or wish to recommend a person to be invited, please send your name or your recommendation identifying the lawyer, his or her firm, business address, phone number, telecopy number, number of years in practice, nature of practice and size of the firm to:

Joy Flowers Conti, Conference Planner
Kirkpatrick & Lockhart
1500 Oliver Building
Pittsburgh, PA 15222

All responses must be received no later than November 19, 1990
10/19, 10/26/90

The burden of examining the return receipt cards, to insure that the notices are acknowledged by the persons to whom they were sent, is one imposed on the Tax Claim Bureau by statute and cannot be relieved by the courts. *Appeal of Mangine*, Pa. Commw. , 487 A.2d 45 (1985). We find the name written on the return receipt card is not Mostafa Korangi Isfahani; therefore, the Tax Claim Bureau was required to send a second notice to him.

Strict compliance with notice requirements of the Real Estate Tax Sale Law is required because the law is not meant to punish taxpayers whose failure stems from oversight or error, but is intended to protect local revenues against willful, persistent and longstanding delinquents. The purpose of tax sales is to insure the collection of taxes, not to strip the taxpayer of his property. *Halpern v. Monroe City Tax Claim Bureau*, Pa. Commw. 558 A.2d 197 (1989). A valid tax sale requires strict compliance with all notice provisions of the Real Estate Tax Sale; there must be strict compliance with such provisions to guard against deprivation of property without due process of law. *Ali, supra.*

We find there is no evidence before this Court to suggest that Mostafa Korangi Isfahani received actual notice of the tax sale of his property in compliance with 72 P.S. §5860.602. The notice mailed to him was returned with a signature that we conclude was clearly not his, and the record is silent as to any other efforts made by the Tax Claim Bureau in compliance with 72 P.S. §5860.101 *et seq.* The tax Claim Bureau failed to make any reasonable effort to effect actual notice to the petitioner. We find that the notice was defective because neither Mostafa Korangi Isfahani nor a person authorized to accept mail on his behalf signed the return receipt. Therefore, we find the Tax Claim Bureau did not strictly comply with the notice requirements of the Real Estate Tax Sale Law and the sale must be invalidated.

ORDER OF COURT

NOW, this 9th day of March, 1990, the September 11, 1989, sale of Parcel 10-D-5-5 located in Guilford Township, Franklin County, Pennsylvania, and owned by Mostafa Korangi Isfahani is set aside.

Exceptions are granted the Franklin County Tax Claim Bureau and to Messrs. Curfman and Zullinger.