

20-8049

IN RE THE SUPREME COURT OF THE UNITED STATES

ORIGINAL

Olivia Douce Sui Juris as beneficiary, , as Trust etc.,

TRUSTOR PERELENA DOUCE decease.

Plaintiff, Appellant,

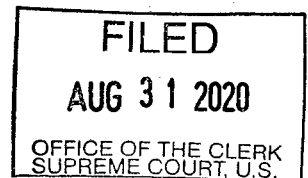
v.

BREVARD COUNTY TAX COLLECTOR No:05-2015-CA-38428

OCEAN TAX DEED INVESTMENT LLC., MURRAY ANDRIAN

ANDREA,

Defendant and Respondent.



IN THE SUPREME COURT OF UNITED STATES FROM BREVARD
COUNTY FIFTH CIRCUIT COURT From JUDGE HARISS DEFAULT ORDER

PETITION BRIEF ON FOR EXTRAODINARY WRIT FOR MANDAMUS

Miss Olivia Douce self own Consul

50 E. 191 Street, 4 M

Bronx New York 10468

1646-353-4429, 929-343-8020

QUESTION

Weather Court abuse its discretion conflict with this court and other courts decision

weather appellee procedurally followed notice or served on Trust or beneficiary

weather trial court lack jurisdiction was appellant deprive due process of law

whether the Title house was properly transferred into the trust.

LIST OF PARTIES

The Caption in this case contain all the names in this proceedings to the Supreme Court of the United States (BREVARD County TAX COLLECTOR No:05-2015-CA-38428 OCEAN TAX DEED INVESTMENT LLC., MURRAY ANDRIAN ANDREA, Defendant and Respondent.

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duplicate copy of original Blanch Bale Private Irrevocably Living Trust

Police Letter 12/9/2009,and Money Order BCTAX

PETITION FOR EXTRAORDINARY WRIT FOR MANDAMUS

I Olivia Douce Sui Juris retain all rights without waiving right per se dual petition this court for order relief redress in violation Section 6335 6065 Rule 4 no service on trust or beneficiary status diversity .

OPENION BELOW ORDER WRIT OF POSSESSION

The local court Judge Harris lack jurisdiction erred in default summary judgment order granted possession void to defendants, petitioner relief brief aid this court to vacate fraudulent order. in App A.

JURISDICTION

The original Jurisdiction of the Supreme Court of the United States conferred on Article 3 Section 2 R.17 28 USC 1251,1651a. Rule 20. Rule 10 conflict other courts 28 USC 1738 mandamus declaratory order. In violation 5th no service R.6335 on petitioner, or trust, decease trustor had no interest in land

CONSTITUTION AND STATUTORY PROVISION INVOLVED

The constitution issues of this involved violation of petitioner 5th and 14th amendment due process of right protected guaranteed by law, violate R.6335 an fraud. Declaration also on 10 Stat. 701. required.

STATEMENT OF THE CASE

A nature of the case

Quasi in rem refers to a legal action reference, have 4 attach witness testimony. by affidavit.

I. FACTS

Background. now for Quiet Title under statute of fraud violate R.6335 Rule.4 service. Rule.60

This action Quasi in rem refers to a legal action involves a dispute over ownership of private property located on 1637 Hays street Palm Bay Florida (the private home land property). A One heir Miss. Olivia Douce appellant beneficiary and, the other brother

Foot note Case LAW UNPUBLISHED IN OFFICIAL REPORTS APPEAL OF THE STATE OF CALIFORNIA FIRST APPELLATE DISTRICT DIVISION FOUR FIRST APPELLATE DISTRICT DIVISION FOUR Petitioner relied on PRATT, Super.Ct.No. 960479) and LINDA CASWELL, as Trustee etc., Plaintiff and Appellant, A074955 The trust was not notified or served. The Illinois Appellate Court in Mendelsohn held when a trust instrument list a house as part of the trust the house belong to the trust. even if the deed was not formally transferred there.

B.Travone Foster the sole beneficiary, no service or notice on trust or appellant. The defendant Brevard County Tax Collector illegally foreclose sold to Ocean Tax Deed LLC is, who paid \$66,000 as the successful bidder at a, Brevard County Tax deed Sheriff sale, Internal Revenue Service (IRS) auction, of the household on July 23, 2015. The other defendant Murray Brevard County Tax collector. Claimant is Perelena Douce deceased trustor, as heir A . Olivia Douce grand daughter son B.Travone Foster is beneficiary of the irrevocable Private living Trust owner(**Blanch Bale Trust 2009 own the land and house**). built by the trustor no debt owed. The Trust's claim is based on a transfer of title by Perelena Douce Will grant house to fund in Blanch Bale Trust, actually assets place into it (that is, change the title on the assets to the name of Blanch Bale trust) for life, the trustor was of sound mind competency and understanding of that procedure, trustee witness by Crystal Maye, App E 4 witnesses on November 10, 2009. Prior to her death, on grand daughter up on her death and grand son B. Travone Foster age now 26 that was,

transfer (specifically, in 10 Nov. 2009), the IRS or Brevard County Tax collector recorded no lien, or purported lien against the private property as part of an effort to collect alleged taxes the (IRS) Braverd tax collector claimed illegally allege, Perelena Douce, had no interest, in that land household goods, the deceased, owed no prior taxes from the 2009, and to 2015 tax years. The **irrevocable private living Blanch Bale Trust** took title to house in 2009, the heir beneficiary, was 12 years old, this grand daughter Olivia Douce, use to live at 291 East 143 Street apt 3a Bronx in New York 10451 was not aware of any purported lien, with no R.4 personal service no notice or signed under oath, or requirement by R.6335, 6065 assessment under oath done. There is a conflict among the courts of appeals on the questions presented by petitioner. See **Mullane v. Central Hanover Bank & Trust Co.**, 339 U.S. 306 (1950) Out-of-state residents cannot be expected to be informed by statements in a local FLORIDA newspaper defendant deal with the property as if no trust existed; persons dealing with the trust property must strictly observe the trust's features. See Clerk refuse to accept filing UCC notice **App B letter.**

B. History of Litigation

In 2015 by Ocean Tax Deed LLC filed a writ possession action against the individual Oliver-Vaughn:Douce then filed affidavit objection moot counter-claim challenge defendants action against the Trust, for some unknown reason by clerk violate 18 USC 2071, affidavit objection **was not docket, App C, against** defendants Ocean tax deed seeking to have title possession order in there name and advancing claims for unlawful detainer/ejectment, conversion and slander of title. When no trial or hearing was held, the court opined grant defendant order for possession by Judge Harris lack jurisdiction, no service or notice on trust, and ignored the filed objection affidavit demand still de novo pending, defendant not agreed that the facts were essential with controversy dispute service. **App-A** writ order void. Bad faith that warrant vacate remand reversal with prejudice.Accordingly, the defendants filed no individual statements of "agreed facts," along with no supporting affidavit, testimony admission documents.The court error decided the case based on default the"possession order with no facts" and the documents. The trial court found that the IRS Brevard county tax collector

tax deed sheriff auction without discovery or followed proper procedures in levying upon the private property and that title should be vested as in Pratt, and Linda Caswell case, as appellants case. The court entered judgment to Ocean Tax Deed LLC as Pratt's compared case favor, awarding them "possession 21/9/15 " from August 8/21/15. June 16, title 1992, through the date of 7/23/15 surrender by force off the Land title no notice on trust. **App D. 24 hour notice.**

violate 6335 R. § 6065. Verification of returns Except as otherwise provided by the Secretary, any return, declaration, statement, or other document required to be made under any provision of the internal revenue laws or regulations shall contain or be verified by a written declaration that it is made under the penalties of perjury. No clear title change hand as Ruff v. Isaac.

II. CONTENTIONS OF THE PARTIES. REASON FOR GRANTING THE WRIT

Rule 20 justify granting this writ aid of the court appellate jurisdiction that exceptional circumstances now warrant the exercise discretionary powers, and adequate relief cannot be obtained in any other form or from any court. in conflict . 339 U. S. 320, Ross v. Ross, 406 Ill. 598 (1950).

Miss Olivia Douce, or beneficiary trust, not notice or served as in Caswell and Tejada claim as appellants that the trial court erred in finding that the IRS Brevard have not followed proper procedures. They specifically assert that a valid lien was not established on the property because certain IRS short comings in the initial phases of the collection process namely, (a) failing to send Blanch Bale private living Trust notice or service, house held in trust, same as in Mandelson as case, in Tejada a valid notice of deficiency form tax years 1992 and 2015, (b) failing to make a valid assessment R. 6065 of the taxes due for those years, holding In re Western Trading Co 340 F. Sup. 1130 D. Nev. 1972 holding not deem to be owing. State v. Atlantic Oil production Co, v U.S. reversed, and (c) failing to mail a valid notice on trust and demand for payment within 60 days of each assessment- invalidate any IRS lien on the property and, thus, the sale to Ocean Tax Deed as in Pratt case. Appellant also claim that the Brevard county tax collector IRS's failure to give Blanch Bale private Trust notice now of age 23 yrs old Olivia Douce sole beneficiary an Tavone Foster as Caswell proper notice of the seizure and sale, to the beneficiary property invalidates the sale. As in Pratt defendants takes issue with both arguments and further asserts that the Trust lacks standing to challenge the procedures employed by the Brevard county tax collector IRS which led to the creation of a illegal false lien against the property, in re Redfield v Sparks under the statue of limitation cannot protect illegal fraudulent tax deed is void. conflict violate R. 10, 28 USC 1738 full faith and credit Cl The Illinois Appellate Court in Mendelerson, and NYS Fioson case on forge deed, conflict with US Supreme Court Center. 339 US 306 (1950) -- Justia US Supreme Court. Violate 5th 14th Amendment due process of rights laws. _____

2 foot note . On appeal to this Court, reversed, p. 339 U. S. 320. Notice is the legal concept describing a requirement that a party be aware of legal process affecting their rights, obligations or duties. There are several types of notice: public notice (or legal notice), actual notice, constructive notice, and implied notice. resident or nonresident, provided its procedure accords full opportunity to appear and be heard. Pp. 339 U. S. 311-313.

Because we find merit in Tejada's and the Trust's argument that Caswell was not given proper notice of proposed sale of the seized property, we need not resolve whether the stipulated evidence introduced in the present case was sufficient to establish compliance with the requirements necessary to create a valid tax lien on the property. Therefore we do not address their assertions regarding IRS errors in attempting to collect from Tejada. Our conclusion in turn, moots defendants Brevard tax collector as Pratt's standing argument. void state circuit court Harris judgments' reference to **Kalb. Feuerstein (1940) 308 US 433, 60 S Ct 343, 84 ed 370**). Federal judges issued void order. See **24 hours notice App D**.

also see *Trinsey v Pagliaro* 229,647 argument motion by attorney are insufficient not facts or testimony defendants case was presented on writ of possession, from court default, see name on app-d Oliver-Vaughn: Douce, ex parte without service notice on trust, house held in trust for beneficiary grand daughter Olivia Douce 17 yrs old at the time 2015, and Travone Foster had no day in court, over the auth Rep: Oliver-Vaughn: Douce Al Dey affidavit counterclaim filed objection moot App-C not heard or docket violate 2071 in violation FL State constitution Art 1 section 2 and United States Const due process Cl of 5th amend, Art 3 section 2 for House land held in trust.

III. STANDARD OF REVIEW

Because the case was presented on (stipulated facts), we review the record de novo. (*Anaconda Co v. Franchise Tax Board* (1982) 130 Cal.App.3d 15, 23.)

compared with this present case writ possession order 21/9/15 to vacate void appeal from

IV. ANALYSIS: THE IRS'S FAILURE TO GIVE PROPER NOTICE TO THE TRUST OF THE SEIZURE AND SALE INVALIDATES THE SALE

Under 26 United States Code 6065, section 6335(a), once real property has been seized, the IRS must give written notice to "the owner trust" of the property. Under subdivision (b) of that section, notice of the proposed sale of the property must also be given to the owner in the manner provided in subdivision (a). Both subdivisions have been interpreted as requiring personal service on the property owner. (*Goodwin v. United States* (9th Cir. 1991) 935 P.2d 1061, 1064-1065.) The IRS must strictly,

² foot note In *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950) Annotation Primary Holding Reasonable steps must be taken to give potentially interested parties notice of an action and an opportunity to respond, and notice by publication may be insufficient if the names and addresses of non-resident parties are available. The use of publication notice violates the Fourteenth Amendment Due Process of law Clause because it creates the possibility that parties will be deprived of their property without the opportunity to be heard. By contrast, it does not raise due process concerns with regard to unknown and future interest holders.

comply with the notice provisions of 26 United States Code section 6335; failure to do so invalidates a seizure and sale of real property, (Ibid) Void,

Here, the required notices of seizure and sale were personally served on Tejada, but no notices were served on Caswell as Miss Olivia Douce or on living Blanch Bale trust. The question then becomes whether or not service on Tejada, as to Oliver-Vaughn:Douce was sufficient for 26 United States Code section 6335 purposes. Pratt offers two theories in support of the proposition that such notice was adequate. **App D 5 day notice an 24.**

Pratt first argues that service on Tejada should be deemed service on the Trust because Tejada was the "agent" of the Trust. Pratt points out that, when the Trust was first created, Tejada was a trustee and that Tejada was still a trustee when the first IRS notice of seizure was served in November 1991. Pratt also notes that Tejada continued to reside on the property, acting as its "caretaker," after Caswell became the sole trustee in December 1991.

Pratt's argument fails factually and legally. First, after Tejada resigned as trustee, the IRS served a corrected notice of tax lien, followed by an amended notice of seizure (which purported to correct the erroneous inclusion of Tejada's former wife in the original notice.) The sale was ultimately conducted pursuant to that amended notice. See notice to individual Oliver-Vaughn:Douce, not Miss Olivia Douce, the Trust owner sole beneficiary, an Travone Foster were out of state or trust **Crystal Maye Trustee, App E Olivia birth and affidavits title,**

Thus, Tejada was not a trustee when the operative notice of seizure was served on him. Second, Tejada was not a trustee when the notice of sale was served on him. Third, the notices in question were not served on Tejada as agent for the Trust; As **Blanch Bale living irrevocable private Trust**, as compared Oliver-Vaughn:Douce they were directed to him as an individual. And finally, Pratt provides no authority for the proposition that Tejada's position as "caretaker" would constitute authority to receive notices on behalf of the Trust even if the notices had been addressed to that entity.

Pratt also argues that the Trust should be deemed the "alter ego" of Tejada and, thus, that service of the notices of seizure and sale on Tejada should be deemed service on the Trust. In support of the first portion of his argument, Pratt asserts that under the trust agreement Tejada "retains the right to draw upon trust bank accounts and receive a salary from the trust. . . ." Pratt also notes that Tejada lived on the property and had his "housing expenses" paid by the Trust. Pratt further notes that the Trust has "no independent source of income" and that "most of the accounts" for the property continue under Tejada's name. (Italics added.)

There are two significant problems with Pratt's arguments. First, "alter ego" is a doctrine, pursuant to which an entity or legal form, such as a corporation or trust, is disregarded in order to impose liability on an individual; it is invoked to avoid inequity. (Say & Say, Inc. v. Ebershoff (1993) 20 Cal.App.4th 1759, 1767-1769.) Pratt fails to establish that inequity would flow from our failure to invoke the doctrine in

the case at bench. We first note that Pratt does not contend and we find no facts in the record which would support a contention that the Trust was not a valid legal entity. As far as fairness to the IRS, Brevard County tax Collector, and Pratt are concerned, the conveyance of title from Tejada, compared to Perelena Trustor will 2009 to the funded living Trust owner as in 1992 was a matter of public record UCC1 notice as Lis pendens App B. Indeed, the notice of encumbrances on the property which the IRS, Brevard County provided to Oliver-Vaughn: Douce as in Pratt before the sale informed Pratt of the conveyance, not to the trust. Thus, both the IRS, Brevard County tax collector as Pratt had actual, as well as constructive, notice of the Trust's status as title holder to the house land location property. The IRS, Brevard County was thus under a duty to serve its,

notices on Caswell and Pratt should certainly have checked to be certain that the IRS's Brevard tax notices conformed to law. Thus, there is no equitable reason to invoke the "alter ego" doctrine to find that service on Tejada as Oliver-Vaughn: Douce constituted service on the Trust.

We also note that even if we were to "disregard" the Trust for the purpose suggested by Pratt, the Trust is still a viable legal entity which "owns" the property. If an owner's actual knowledge of a seizure and sale is inadequate to validate a sale absent strict compliance with 26 United States Code section 6335 notice requirements (see discussion in fn. 1, ante), we have grave doubts that service on Tejada in his capacity as the "alter ego" of the Trust would be deemed sufficient under federal law. Saldamando, J.* We concur: Hanlon, PJ. Poche, J.

* Judge of the City and County of San Francisco Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

3 Foot note In an article written in the Illinois Bar Journal, November 2015, attorney Sherwin Abrams was referenced as having compared the Mendelson case to the case of *Ross v. Ross*, 406 Ill. 598 (1950). Although a trust instrument stated the house was part of the trust, there was no separate, formal documentation demonstrating a transfer of the home into the trust. When considering whether the home was properly transferred into the trust, the Mendelson court noted that it could "find no Illinois authority on point." *In re Mendelson*, at ¶ 30. The court held that the house was indeed part of the trust despite the absence of a recorded deed transferring the real estate to the trust. The case quickly sparked discussion among members of the ISBA's transactional email discussion group. Several raised the concern that unsuspecting purchasers of real property will learn to their dismay that the property they bought had previously been transferred to a trust without that transfer having been recorded.

The judgment should be reversed. The trial court bad faith should be hereby directed to enter judgment quieting title in this private living Blanch Bale Trust appellant to beneficiary. defendant Brevard county as, in Pratt to bear costs of appeal.

The Illinois Appellate Court in Mendelson held that when a trust instrument lists a house as part of the trust, the house belongs to the trust even if the deed was not formally transferred there. Critics worry the ruling could put unsuspecting purchasers at risk. On September 9, 2015, the Illinois Appellate Court issued its ruling in In re Estate of Mendelson, 2015 IL App (2d) 150084.

Foot note

Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950), was a case in which the Supreme Court of the United States set forth the constitutional requirements for notice of judicial proceedings to a potential party under the 5th and Fourteenth Amendment to the United States Constitution. The right to property or right to own property is often classified as a human right for natural persons regarding their possessions. A general recognition of a right to private property is found more rarely and is typically heavily constrained insofar as property is owned by legal persons and where it is used for production rather than consumption.

IV. CONCLUSION

WHEREFORE request this court should now reverse with prejudice considered grant Petitioner For an Extraordinary Writ For by this Court Prohibition Mandamus and set the matter on court docket for briefing on the issues relief null void the order stay herein. R.17 R.20. Under penalty of perjury.

28 USC 1746 respectfully presented

auth rep by: 

O  M K D  1-103

50 East 191 Street Apt 4m

Bronx in New York 10468

livydouce@gmail.com cel 829-343-8020

Tele 646-353-4429