

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Property Tax

INA LOUISE PAULSON and RON G. PAULSON,)	
)	
)	
Plaintiffs,)	No. 021025A
)	
v.)	
)	
LINCOLN COUNTY ASSESSOR,)	
)	
Defendant.)	DECISION

The Paulsons have appealed to this court as a result of the foreclosure proceedings against Ina Paulson's home, a residence identified by Account No. R467717. Ron Paulson, Ms. Paulson's son, spoke on her behalf. Lincoln County was represented by its counsel, Ron Bovett.

STATEMENT OF FACTS

From the 1996-97 tax year forward, Ms. Paulson did not pay the property taxes assessed against her home. This was not a deliberate choice. Instead, it was the result of a progressive senility. Ms. Paulson did not pick up her mail, to the point that the U.S. Postal Service no longer delivered it. As a result she did not pay her bills. As the debts remained unpaid vendors and service-providers would either locate Mr. Paulson or his brother and call their attention to the matter, or else the problem would become apparent when the utility or other business stopped providing its services.

As to the property taxes at issue here, Ms. Paulson's sons each thought the other sibling was attending to the matter. The unpaid tax bills reached the point that Lincoln County sent out the notice to Ms. Paulson that the redemption period for the

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property had expired. The notice was returned to the county unopened.

The Paulsons come to this court seeking relief from the penalties, interest, and fees imposed upon the delinquent taxes. As to the interest in particular, the Paulsons point out that it has, as to some years, accumulated to the point that it approaches the tax due, and that the rate at which it was imposed was high.

COURT'S ANALYSIS

The law in this case is clear. The tax collector of Lincoln County sent notices, first of taxes due, and next, of foreclosure proceedings, to Ms. Paulson. The notices of delinquent taxes complied with ORS 311.545¹ in that they were sent to the last-known address of Ms. Paulson. The notices of foreclosure proceedings were sent, as set out in ORS 312.040, by regular first class and certified mail to Ms. Paulson, as was, in accordance with ORS 312.125, the notice of the expiration of the period of redemption.

Mr. Paulson makes the point that more should have been done to locate those who would have become involved on behalf of Ms. Paulson. The legislature, in considering exactly that point, chose to also require, as part of ORS 312.040 (1) that the foreclosure list be published in each county's newspaper of general circulation. This, the legislature decided, was enough.

Similarly, the interest rate imposed on the delinquencies was set by the legislature in ORS 311.505, and reviewed by it biennially through ORS 311.506. Overlaying these points are the conclusive presumptions of notice resulting from tax foreclosure laid out in ORS 312.216. A last observation is that an appeal from a judgment and decree foreclosing tax liens is not to the Tax Court, but instead, as mandated by ORS 312.210, to the Court of Appeals. For all these reasons, under the law the Tax Court simply does not have the power to do what the Paulsons request.

¹All references to the Oregon Revised Statutes (ORS) are to 2001.

However, is the Paulsons' request so unreasonable? Ms. Paulson, and those who care for her, made a simple mistake, albeit repeatedly, of not responding to the mail. Once the U.S. Postal Service stops delivering mail, the statutory mechanisms for providing notice become much less effective.

Isn't Ms. Paulson's senility enough reason to set aside the statutes in this particular instance? The answer is simply no. There is no individual discretion as to whether or not the law ought to be enforced. Should a county fail to institute foreclosure proceedings, the Attorney General may be brought in to do so, as called for in ORS 312.020. County courts through ORS 311.785 only have an extremely limited ability to compromise taxes and abate interest. The legislature has written the law in such a manner as to preclude the court's ability to say that, in this particular instance, there should be relief from foreclosure. Presumably the legislature learned, in the century it has been setting out the law as to foreclosure, that there would be individuals such as Ms. Paulson who were caught up in the process. The court cannot say that the balance the lawmakers struck when they wrote the statutes was in error. This appeal is denied.

CONCLUSION

IT IS THE DECISION OF THIS COURT that the appeal is denied.

Dated this _____ day of November, 2002.

SCOT A. SIDERAS
MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, FOURTH FLOOR, 1241 STATE ST., SALEM, OR 97301-2563. YOUR COMPLAINT MUST BE SUBMITTED WITHIN 60 DAYS AFTER THE DATE OF THE DECISION OR THIS DECISION BECOMES FINAL AND CANNOT BE CHANGED.

THIS DOCUMENT WAS SIGNED BY MAGISTRATE SCOT A. SIDERAS ON NOVEMBER 7, 2002. THE COURT FILED THIS DOCUMENT ON NOVEMBER 7, 2002.