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2008

## **Digest: Mayer v. L&B Real Estate**

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### **Recommended Citation**

Brian S. Thomley, *Digest: Mayer v. L&B Real Estate*, 12 CHAP. L. REV. 267 (2008).

Available at: <https://digitalcommons.chapman.edu/chapman-law-review/vol12/iss1/31>

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*Digest: Mayer v. L&B Real Estate*

*Brian S. Thomley*

Opinion by Moreno, J., expressing the unanimous view of the Court.

Issue

Did a defective notice that landowners were delinquent in real property taxes toll the running of the one-year statute of limitations for a quiet title action to set aside the tax sale of the property?

Facts

On December 16, 1991, plaintiffs Frank and Josie Mayer purchased a piece of commercial property located on La Brea Avenue in Los Angeles and on which there was an AutoZone auto parts store.<sup>1</sup> The grant deed described the La Brea Avenue property as consisting of three parcels.<sup>2</sup> After the purchase, the plaintiffs received and timely paid all yearly property tax assessments on the property.<sup>3</sup>

On June 20, 2001, plaintiffs received a notice in the mail from the Los Angeles County Tax Collector that a piece of land described in the notice would be auctioned to satisfy delinquent taxes assessed on the property to Henry and Chong Moon.<sup>4</sup> Seeing that the parcel number and property description in the notice did not correspond to their tax bills and deed and not knowing who the Moons were, plaintiffs returned the notice, per its instructions, to its sender.<sup>5</sup>

Plaintiffs did not realize that the property described in the notice consisted of the second and third parcels described in their deed.<sup>6</sup> The assessor's office had mistakenly assessed taxes on this parcel to the previous owners, the Moons.<sup>7</sup> The Tax Collector discovered this error on May 17, 2001 but still proceeded with the tax sale on August 6, 2001.<sup>8</sup>

On November 2, 2001, a letter from the Tax Collector notified plaintiffs that the parcel had been sold at a tax sale and listed their names as

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<sup>1</sup> Mayer v. L&B Real Estate, 185 P.3d 43, 44 (Cal. 2008).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 44–45.

<sup>6</sup> *Id.* at 45.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

assesses.<sup>9</sup> Plaintiffs, realizing that their property had been sold, attempted unsuccessfully to have the Tax Collector cancel the sale.<sup>10</sup> On or about September 7, 2002, the purchaser of the property, defendant L&B Real Estate, negotiated a lease agreement with AutoZone, which deducted the rent it paid to L&B from the rent it paid to plaintiffs.<sup>11</sup> On October 11, 2002, more than one year after the tax sale on August 6, 2001, but less than one year after the notice of the sale on November 2, 2001, plaintiffs filed an action to quiet title to the property.<sup>12</sup>

The trial court entered judgment for plaintiffs declaring the tax sale void and ordering disgorgement of the proceeds and rents collected from the property.<sup>13</sup> The Court of Appeal reversed the judgment on the ground that the action was barred by the one-year statute of limitations set forth in Revenue and Taxation Code section 3725, which provides that “[a] proceeding based upon alleged invalidity or irregularity of” a sale of tax-defaulted property “can only be commenced within one year after the date of execution of the tax collector’s deed.”<sup>14</sup> The Court of Appeal reasoned that the Tax Collector’s November 2, 2001 letter gave plaintiffs actual notice of the sale within three months after the statute began to run on August 6, 2001, when the Tax Collector’s deed was executed.<sup>15</sup> The Supreme Court of California, granting review, reversed the judgment of the Court of Appeal.<sup>16</sup>

### Analysis

The Court articulated the general principle under California law that a statute of limitations for an action to quiet title does not begin to run on a landowner in undisturbed possession of the land.<sup>17</sup> Further, a statute of limitations on an action to set aside a tax sale does not begin to run on an owner in undisturbed possession that challenges the tax sale based on the failure to provide adequate notice of the sale.<sup>18</sup>

The Court also noted that the legislative history to the Revenue and Taxation Code section 3725 acknowledges that the statute was inapplicable to cases involving a jurisdictional defect where the owner is in undisturbed possession of the property.<sup>19</sup> In the present case, the Court said, plaintiffs had alleged a jurisdictional defect consisting of the failure of the Tax

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<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 46.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* (quoting CAL. REV. & TAX. CODE § 3725 (2008)).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 43, 48.

<sup>17</sup> *Id.* at 46 (citing *Tannhauser v. Adams*, 187 P.2d 716 (Cal. 1947); *Smith v. Matthews*, 22 P. 409 (Cal. 1889)).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 46–47.

Collector to give them adequate notice of the tax sale.<sup>20</sup>

The Court then clarified that the statute of limitations runs on a landowner in undisturbed possession that has adequate notice of a tax sale.<sup>21</sup> The Court explained that an owner who fails to pay property taxes is generally put on constructive notice that a sale may result.<sup>22</sup> However, the court said that no such notice arises in cases, such as special assessments, where the owner cannot reasonably expect that his property is being taxed.<sup>23</sup> The Court said that, similar to a special assessment, plaintiffs had no reason to suspect their tax delinquency because they paid their yearly tax bill.<sup>24</sup> Thus, the Court concluded, their delinquency alone did not put them on notice to disturb their possession and trigger the running of the statute.<sup>25</sup>

The Court also said that the plaintiffs did not receive actual notice of the tax sale in the June 20, 2001 notice because they did not recognize the information on the notice.<sup>26</sup> The Court also rejected the Court of Appeal's conclusion that the statute of limitations began to run at the time of the tax sale on August 6, 2001.<sup>27</sup> The Court reasoned that plaintiffs were in undisturbed possession until receiving actual notice of the tax sale in the November 2, 2001 letter, when the statute began to run.<sup>28</sup>

### Holding

The Court held that plaintiffs' suit to quiet title, which was filed on October 11, 2002, less than one year after plaintiffs received notice of the tax sale on November 2, 2001, was timely under the one-year statute of limitations in section 3725 of the Tax and Revenue Code.<sup>29</sup>

### Legal Significance

This decision upholds taxpayer's due process rights by embracing lack of adequate notice of a tax sale within the meaning of "undisturbed possession." The Court recognized that there may be unusual situations in which diligent landowners have no reasonable expectation that their property is being taxed. This decision allows them more time to challenge the sale by tolling the statute of limitations during the time that they lack actual or constructive notice of the sale.

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<sup>20</sup> *Id.* at 47-48.

<sup>21</sup> *Id.* at 47.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 48.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*