

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

HILDA GARCIA and
DORA G. DEIDA,
Plaintiffs

Case No.

v.

PEDRO J. GARCIA, as Property Appraiser
of Miami-Dade County, Florida,
Miami-Dade Tax Collector, and
JIM ZINGALE, as Executive Director
of the Florida Department of Revenue,

Defendants.

COMPLAINT FOR DECLARATORY RELIEF

Plaintiffs, HILDA GARCIA and DORA G. DEIDA, sue Defendant, PEDRO J. GARCIA, as Property Appraiser of Miami-Dade County, Florida, the Miami-Dade Tax Collector and JIM ZINGALE, as Executive Director of the Florida Department of Revenue, and allege as follows:

1. This is an action for a declaratory judgment and to challenge the removal of a homestead exemption on property in Miami-Dade County, Florida. This Court has jurisdiction pursuant to Chapter 194, Florida Status, article V, sections 5 and 20 of the Florida Constitution, and section 86.011, Florida Statutes.
2. Plaintiff, HILDA GARCIA (hereinafter GARCIA), is the property taxpayer of certain real property located at 1840 Bright Drive, Hialeah, FL 33010 and identified as Parcel No. 04-3107-014-0240 ("Subject Property"), which was classified and assessed as owner-occupied residential property for over 40 years. Plaintiff GARCIA lost title of the subject property in June 2018 through a mistakenly recorded deed which transferred title to her daughter, Dora G. Deida (hereinafter DEIDA).

3. Plaintiff, DORA G. DEIDA, is the current title holder of real property located at 1840 Bright Drive, Hialeah, FL 33010 and identified as Parcel No. 04-3107-014-0240 ("Subject Property").
4. PEDRO J. GARCIA, as Miami-Dade County Property Appraiser is sued herein in his official capacity and is a necessary party to the action pursuant to section 194.181(2), Florida Statutes.
5. Miami-Dade County Tax Collector is sued herein in its official capacity and is a necessary party to the action pursuant to section 194.181(3), Florida Statutes.
6. JIM ZINGALE is sued herein in his official capacity as Executive Director of the Florida Department of Revenue, and is a necessary to the action pursuant to section 194.181(5), Florida Statutes.
7. From 1969 to and including June, 2018, GARCIA, was the owner and property tax payer of the Subject Property and made it her permanent residence. GARCIA has continuously lived at the Subject Property since 1969 through and including the date of this filing.
8. GARCIA, applied for and received homestead exemption on the Subject Property in the 1969 tax year. She continued to receive the homestead exemption on the property for over 40 years, through and including the 2018 tax year.
9. In April, 2018, GARCIA, due to her age and health, sought the help of undersigned counsel to prepare a deed which would transfer the property to her daughter, Dora G. Deida, in the event of the Plaintiff's demise. A deed was prepared to that effect (hereinafter "the first deed"). However, after further discussions, a second deed was prepared wherein the property would pass from the Plaintiff, to Plaintiff and her daughter as joint tenants with rights of survivorship (hereinafter "the second deed").
10. Plaintiff, inadvertently, filed the first deed transferring the property from herself to her daughter on June 21, 2018. A copy of the first deed which was mistakenly recorded is hereby attached as Exhibit "A."

11. In November 2019, Plaintiff's property taxes came due and she received her Notice of Ad Valorem Taxes and Non-Ad Valorem Assessments from the Miami-Dade Tax Collector. A copy of the Notice is attached hereto as Exhibit "B." It was at that time that the Plaintiffs became aware that GARCIA was no longer receiving her homestead or widow tax exemptions and that the property had been transferred to her daughter, DEIDA, and not to both herself and her daughter.
12. Upon learning of the mistake in the recording of the first deed, Plaintiffs filed a Recision of Quit Claim Deed Agreement wherein both GARCIA and DEIDA, acknowledged that the deed was filed in error and that both parties mutually agreed that title was to revert back to and remain solely in the name of GARCIA. A copy of the Recision Agreement, which was recorded in the public records of Miami-Dade County on December 3, 2019, is hereby attached as Exhibit "C."
13. On December 10, 2019, undersigned received notice from the Miami-Dade County Property Appraiser that they would not accept the Recision Agreement to reinstate the Plaintiff's homestead and widow tax exemptions or to revert title back to Plaintiff's name. The Property Appraiser recommended that Plaintiff file a Quiet Title Action. This lawsuit ensued. See letter from Miami-Dade County property appraiser attached hereto as Exhibit "D."
14. Simultaneously with the filing of this action, Plaintiffs filed the second deed to transfer title to both Plaintiffs names, as originally intended by the parties. A copy of the unrecorded second deed is hereby attached as Exhibit "E."

Count 1 – QUIET TITLE

15. Plaintiffs re-allege and incorporate by reference paragraphs 1-14 of this Complaint as though fully set forth herein.
16. Plaintiff, GARCIA, was the title owner of the subject property from 1969 through 2018.
17. Plaintiff, DEIDA, is the currently title owner of the subject property.

18. That title was transferred from Hilda Garcia to Dora G. Deida, in error, through a Quit Claim Deed which acts as a cloud on title to the subject property.
19. That the deed, recorded in error, was a mutual mistake by the parties and is therefore, invalid.
20. That leaving the property in the name of DEIDA alone would result in great prejudice and undue hardship to Hilda Garcia who has lived in the property, continuously, for a period of over 40 years.
21. That both Plaintiffs desire that title be transferred to both of their names.

WHEREFORE, Plaintiffs pray that the Court void the first deed, ratify both the Recision of Quit Claim Deed Agreement and the second deed transferring title to both Hilda Garcia and Dora G. Deida, as joint tenants with rights of survivorship, retroactively to the date of filing of the first deed.

Count 2 – REINSTATEMENT OF 2019 TAX EXEMPTIONS

22. Plaintiffs re-allege and incorporate by reference paragraphs 1-14 of this Complaint as though fully set forth herein.
23. In October 2019, the Miami-Dade Tax Collector sent Plaintiff DEIDA, the Notice of Ad Valorem Taxes and Non-Ad Valorem Assessments from the Miami-Dade Tax Collector for the subject property.
24. That said Notice clearly states on its face that Plaintiff is no longer receiving tax exemptions of any kind for the subject property.
25. Prior to the 2019 Tax Notice, GARCIA received First Homestead, Additional Homestead, Limited Income Senior and Widow tax emptions.
26. That GARCIA'S primary residence and marital status remains the same and has not changed.
27. The subject property is GARCIA's primary residence where she has lived continuously for over 40 years and therefore, entitles her to receive the homestead exemption on the Subject Property

pursuant to article VII, section 6 of the Florida Constitution and section 196.031, Florida Statutes and the removal/denial of the homestead exemption is unlawful.

28. GARCIA is unable to pay the amount of property taxes and currently requested by the Miami-Dade Tax Collector.

29. Plaintiffs have performed all conditions precedent which are required to be performed by Plaintiff in establishing their right to bring this action.

30. Plaintiff is bringing this action for declaratory relief pursuant to section 196.151, Florida Statutes.

WHEREFORE, Plaintiffs pray that this Court enter an order reinstating the 2019 tax exemptions, including homestead exemption, on the Subject Property, ordering the Tax Collector to cancel the original tax bill, issue a new tax bill; and awarding such other general relief as may be just and equitable.

Dated: February 19, 2020

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