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**John Vosilla, et al. v. Julio Rosada, et al.
SC05-1778**

CHIEF JUSTICE: A RE THE ATTORNEYS HERE F OR THE FIRST CASE? ALL RIGHT, WELL , PLEASE COME ON UP. THE FIRST CASE ON THE COURT'S DOCK ET IS VOSILLA VERSUS ROSADO AND T O THEREST OF THE AUDIENCE AND TO THE STATE , WELCOME TO THE FLORIDA SUPREME COURT. PARTIES READY ?

YES .

CHIEF JUSTICE: YOU MAY PROCEED.

THANK YO U. GOOD MORNING, YOUR HONORS. MY NAME IS STEPHEN SAPIENCE A , AND I AM HERE TO DAY ON THE CASE TODAY OF VOSILLA VERSUS RO SADO . A S I AM SURE YOU ARE BY NOW , ALL OF YOU ARE FAMILIAR W ITH WHAT THE ONE LOAN IS SUE BEFORE THIS COURT IS THE.I H AVE MADE SEVERAL ATTEMPTS AT TRYING TO P OSYOU L ATE IN A S INGLE -- AT TR YING TO POSTULATE IN A SI NGLE STATEMENT, AND THE BE ST I CAN CO ME UP WITH IS , I S IT DUE PROCESS WHEN A CLERK SENDS OU T A NOTICE , CERTIFIED MAIL , RECEIVES BACK THE RETURNED RECEIPT SIGNED FOR. THE SHERIF F POST S THEPROPERTY AND THE SALE IS ADVERTISED WITH THE NA MES OF THE DEFENDANTS IN THE NO TICE, BUT THE OWNER S HAVE MADE T WO ATTEMPTS TO HAVE THEIR ADDRESS CHANGED.

CHIEF JUSTICE: IS THAT SO WE HAVE THE FACTS OF THIS CASE, BUT I G UESS ISN'T THE CONSTITUTIONAL QUESTION, IT WOULD BE PHRASED AS WHETHERFROM THE PO INT OF VIEW OF THE CL ERK , WHETHER THERE WAS NOTICE THAT WAS REASONABLY CALCULATED TO GIVE ACTUAL NOTICE.

CORRECT.

CHIEF JUSTICE: WE HAVE THE STATUTE BUT BUT WE ALSO HAVE THE CONSTITUTION.

ABSOLUTELY.

CHIEF JUST ICE: SO THEN ARE YOU SAYING IT IS REALLY A FACT-SPECIFIC QUESTION?

IT IS.

CHIEF JUSTICE: THEN WHY D O WE HAVE JURISDICTION HERE TO TA KE THE CASE?

BECAUSE OF THE DECISION OF THE FI FTH DCA CONFLICTED WITH ALL PRIOR DECISIONS , AND THEY FOUND THAT THE APPLICATION OF THE STATUTE TO BE UNCONSTITUTIONAL. AS APP LIED TO THESEDEFENDANTS.

JUSTICE: ARE YOU FAMILIAR WITH THE US SUP REME COURT 'S DECISION LAST WEEK?

I AM AND I WAS AB OUT TO DISCUSS THAT .

JUSTICE: ARE YOU PREPARED TO COM MENT THAT AND ITSPOSSIBLE E VENT H E CAN'T ON OUR DE CISION - - AND ITS POSSIBLE EFFECT ON OUR DECISION TODAY WITH REFERENCE TO THE DUE PR OCESS ISSUE?

THAT IS EXACTLY WHAT I WAS HEADED TOWARDS.

JUSTICE: WHY DON'T YOU DO THAT IT SEEMS LIKE THE U.S. SUPREME COURT HAS TAKEN A VERY BROAD VIEW OF THE IMPLICATION OF DUE PROCESS CONCERNS IN A MATTER LIKE THIS AND, REALLY, SEEMED TO HAVE BENT OVER BACKWARDS WITH REFERENCE TO THIS NOTICE ISSUE IN THAT DECISION, BUT WOULD YOU HELP US WITH REFERENCE TO WHETHER YOU THINK IT IMPACTS OUR DECISION.

ABSOLUTELY. LET ME JUMP TO THAT VERY ISSUE. UNDER THE FACTS OF THIS CASE THERE WAS NOTHING THAT LED THE CLERK TO BELIEVE THAT THERE WAS LACK OF DUE PROCESS, ACCORDING TO THE ROSADOS --

CHIEF JUSTICE: ACTUALLY CONTESTED, NOTIFIED THE CLERK AND TAX COLLECTOR ON TWO DIFFERENT OCCASIONS AND TO THE CLERK BY CERTIFIED MAIL THAT THERE WAS TO BE A CHANGE OF ADDRESS.

CORRECT.

CHIEF JUSTICE: WHEN THE SHERIFF WENT OUT TO SERVE THE NOTICE OF THE SALE, THE SHERIFF ADVISED THE CLERK THAT THE INDIVIDUAL THAT WAS THERE WAS NOT THE RESIDENT, WAS NOT THE TAXPAYER. CORRECT?

CORRECT.

CHIEF JUSTICE: ALL RIGHT. SO WHAT, THEN, DID THE CLERK DO, FACED WITH THAT?

WELL, REALLY IT IS JUST OPPOSITE. THE CLERK HAD GOTTEN BACK ASSIGNED RECEIPT FOR THE CERTIFIED MAIL, SO THE AWRY THAT THE SUPREME COURT IN FLOWERS WAS WORRIED ABOUT WAS, WAIT A MINUTE, CLERK, YOUR CERTIFIED LETTER CAME BACK UNDELIVERED. THIS IS NO BETTER THAN IF YOU HADN'T DONE ANYTHING.

CHIEF JUSTICE: IS WHAT THE ROSADOS DID AS FAR AS SENDING LETTERS, THAT MAKING ANY DIFFERENCE IN HOW WE WOULD ANALYZE THE CASE, OR FROM YOUR REVIEW OF OUR PRIOR CASE LAW? IN OTHER WORDS CASES WHERE THE TAXPAYER DOES NOTHING.

RIGHT.

CHIEF JUSTICE: BUT THE TAXPAYER HAS MOVED, AND THEN THERE IS A QUESTION SHOULD THE CLERK HAVE DONE SOMETHING MORE.

YES.

CHIEF JUSTICE: OR CASES WHERE FROM THE TAXPAYER'S POINT OF VIEW, THEY HAVE MADE REASONABLE AT HE WANTS TO NOTIFY -- ATTEMPTS TO NOTIFY THE CLERK, THE PROPERTY APPRAISER, THE TAX COLLECTOR OF A CHANGE OF ADDRESS. SHOULD WE ANALYZE THE CONSTITUTIONAL QUESTION IN ANY DIFFERENT LIGHT, BASED ON WHAT THE TAXPAYER DOES?

WELL, I THINK YOU ARE SUPPOSED TO. I THINK THAT THE JONES VERSUS FLOWER DECISION, IN FACT, CITES TWO DECISIONS AS EXAMPLES, WHERE THE GOVERNMENT CAN'T GO BLINDLY ATTEMPTING A SERVICE THAT THEY KNOW IS GOING TO FAIL! THE ONE CASE WAS AN INSTANCE WITH A STATE OFFICIAL. I BELIEVE IT IS THE POLICE DEPARTMENT, ATTEMPTING A FORFEITURE, AND MAILING THE NOTICE OF THE PROCEEDINGS TO THE HOME ADDRESS OF THE INDIVIDUAL WHOSE PROPERTY THEY ARE ATTEMPTING TO FORFEIT, WHEN THEY KNOW HE HAS JUST BEEN PROSECUTED, JUST BEEN SENTENCED TO THE JAIL, AND ISN'T GOING TO BE AT HOME, AND THIS KNOWLEDGE WAS KNOWN TO THEM, BECAUSE IT WAS THE SAME AGENCY, AND THE OTHER EX

AMPLE THEY GIVE IS --

JUSTICE: IN THIS CASE , WASN'T THERE KNOWLEDGE OR THERE SHOULD HAVE BEEN KNOWLEDGE ON THE PART OF AT LEAST TWO ACTORS IN THIS CASE, THE CLERK'S OFFICE AND THE TAX COLLECTOR'S OFFICE THAT THERE WAS IN FACT , A CHANGE OF ADDRESS.

HERE IS WHAT THE PROBLEM IS WITH THE NOTICE THEY SENT OUT. OKAY. FIRST OFF , IF YOU READ THE LETTER, IT DOESN'T SPECIFICALLY SAY I AM WRITING YOU TO CHANGE MY ADDRESS ON THE TAX ROLLS .

JUSTICE: THEY SAID FOR ALL PURPOSES OR WORDS TO THAT EFFECT .

FOR ALL PURPOSES BUT WHO ARE THEY SAYING IT TO? THE CLERK OF THE COURT FOR ALL PURPOSES ANY LETTERS THAT YOU WANT TO SEND ME , SEND IT TO THIS ADDRESS.

CHIEF JUSTICE: SPECIFICALLY THEY SAID THEY SENT IT TO THE FIRST ONE WENT TO ATTENTION PROPERTY --

THAT WAS THE SECOND ONE BUT YOU ARE RIGHT. THE ONE TO THE CLERK WAS SENT TO THE ATTENTION TAX DEPARTMENT. FIRST OF ALL THERE IS NO SUCH THING AS A TAX DEPARTMENT. AND SECOND --

CHIEF JUSTICE: I GUESS WE ARE GETTING TO THE FACT OF WHETHER YOU SAID THE CLERK'S OFFICE OR THE PROPERTY COLLECTORS OFFICE KNEW OR SHOULD HAVE KNOWN.

CORRECT.

CHIEF JUSTICE: SO ARE WE NOW GETTING INTO, IS THIS A FACTUAL ISSUE? IN OTHER WORDS WE ARE HERE, AGAIN , BECAUSE OF A CONFLICT.

RIGHT.

CHIEF JUSTICE: THE CONFLICT ABOUT THE SECOND DISTRICT WAS REALLY AND TRULY THE TAXPAYER OUGHT TO KNOW IF THEY HAVEN'T PAID THE TAXES THAT SOMETHING IS GOING TO HAPPEN .

RIGHT.

CHIEF JUSTICE: SO YOU YOU AGREE WE HAVE GONE BEYOND THAT.

WE HAVE GONE BEYOND THAT. WHAT WE HAVE GOT NOW IS THE SUPREME COURT SAYING TO US IT IS FACT-SPECIFIC. IT IS ABSOLUTELY DUE PROCESS IS NOT DECIDED IN A VACUUM. DUE PROCESS ISN'T THAT YOU CAN GET AWAY WITH SENDING A CERTIFIED LETTER THAT COMES BACK TO YOU UNDELIVERED. NO FORWARDING ADDRESS. REFUSED. YOU KNOW THAT YOUR ATTEMPT WAS NO GOOD. YOU KNOW YOU NEED TO DO SOMETHING MORE TO SATISFY DUE PROCESS. THAT IS WHAT JONES VERSUS FLOWERS SAID .

JUSTICE: ISN'T THE MORE DISCREET ISSUE , THOUGH, HERE , THE IMPACT OR EFFECT OF THESE LETTERS WRITTEN BY THE TAXPAYER?

YES .

JUSTICE: ISN'T THAT REALLY --

AND MY PROBLEM WITH IT IS THAT THOSE TWO LETTERS ARE AMBIGUOUS. THE ROSADO S NOR THE FIFTH DISPUTE THE FACT THEY DIDN'T GO TO THE RIGHT DEPARTMENT .

JUSTICE: SO BASICALLY WHAT YOU ARE SAYING IS THE GOVERNMENT CERTIFIED LETTER TO THE RESIDENT ON RECORD , IS SUFFICIENT TO --

WHEN IT IS SIGNED.

JUSTICE: BUT THE PROPERTY OWNERS' LETTER TO THE GOVERNMENT WHO IS INTENDING TO TAKE THEIR PROPERTY IS NOT SUFFICIENT IN THE SAME CIRCUMSTANCES .

FOR THE REASON THAT THE LETTER ADDRESSED TO THE PROPERTY OWNER WENT TO THE RIGHT ADDRESS, ADDRESSED TO THE RIGHT PERSON. THE LETTER SENT BY THE TAXPAYER WAS SENT TO THE WRONG PERSON IN THE WRONG DEPARTMENT!

JUSTICE: BUT WHEN IT CAME BACK, WAS THE CERTIFICATE SIGNED BY THE PERSON THAT IT WAS SENT TO?

I DON'T THINK THAT EVEN THE SUPREME COURT WOULD REQUIRE, NOW WE ARE GOING TO HAVE A WRITING EXPERT SAY IS THIS REALLY THEIR SIGNATURE ? I MEAN , I THINK YOU ARE TAKING IT WAY BEYOND.

JUSTICE: WE KNOW THAT THEY WERE NOT THERE AND THEY WERE NOT THE PEOPLE WHO SIGNED, YET YOU WANT TO PUT THEM ON A PLANE WHERE THEY HAVE TO BE VERY PRECISE BUT YET THE GOVERNMENT DOES NOT. THAT SEEMS TO BE WHERE YOU ARE HEADED WITH THIS ARGUMENT.

NO. WHAT I AM SAYING IS FOR THE GOVERNMENT TO BE ON NOTICE THAT THEIR MEANS OF SERVICE IS NOT GOING TO BE EFFECTIVE , THEY HAVE TO BEEN QUOTE/UNQUOTE ON NOTICE , AND THE TWO CASES CITED WAS ONE THAT I JUST REFERRED TO, WHERE THEY JUST FINISHED PROSECUTING THE MAN , THE SAME DEPARTMENT THAT IS TRYING TO FORFEIT HIS ASSETS , AND THE OTHER ONE WAS OF A RECLUSE , WEALTHY LADY , WHO WAS IN ESSENCE ANALOGOUS TO THE TOWN DRUNK.

JUSTICE: ARE THOSE THE ONLY TWO TYPES OF NOTICE?

OF NOTICE.

JUSTICE: THAT YOU YOU BELIEVE ARE IMPACTED --

CORRECT. CORRECT.

JUSTICE: IT LEAVES NO ROOM FOR DISCUSSION WITH REGARD TO OTHER TYPES OF NOTIFICATION COMING TO THE GOVERNMENT, WITH REGARD TO THE PROPERTY OWNERS OR THE CITIZENS ' PROPERTY BEING ADVERSELY IMPACTED.

I AM SOUGHT SAYING THAT , BUT - - I AM NOT SAYING THAT , BUT I AM SAYING NEITHER SHOULD BURDEN BE ON THE GOVERNMENT THAT IF THE INNOCUOUS LETTER THAT COMES IN, THE CLERK SHOULD TAKE CARE OF THIS ORPHAN LETTER AND FIND IT A HOME , BECAUSE THE CLERK'S OFFICE DOES NOT MAINTAIN RECORDS .

JUSTICE: THIS ORPHAN LETTER IS TO THE CLERK OF THE COURT.

YES.

JUSTICE: AND WHO MAILED THE NOTICE AT ISSUE IN THIS CASE?

PARDON ME?

JUSTICE: WHO MAILED THE NOTICE FROM THE GOVERNMENT THAT IS AT ISSUE IN THIS CASE, THE CERTIFIED LETTER TO THE HOMEOWNER?

THE CLERK OF COURT.

JUSTICE: AND THAT SAME CLERK OF THE COURT RECEIVED A CERTIFIED LETTER ADDRESSED TO THE CLERK OF THE COURT FROM THE PROPERTY OWNER, SAYING THAT OUR NEW MAILING ADDRESS SHOULD BE CHANGED TO THE FOLLOWING.

RIGHT AT A TIME WHEN THE CLERK OF THE COURT DID NOT HAVE A TAX DEED FILE OPEN, DOESN'T MAINTAIN RECORDS GENERALLY OF ALL OF THE CITIZENS IN SEMINOLE COUNTY, AND KEEP AN UPDATE OF THEIR ADDRESS, AND THEN KEEP IT IN A COMPUTER ON THE HOPES THAT SOMEDAY THERE WILL BE A TAX DEED SALE, AND THEY WILL NEED THAT ADDRESS.

CHIEF JUSTICE: LET'S JUST GO BACK TO THE TEACHING OF THE U.S. SUPREME COURT CASE. WHAT DID YOU READ OR WHAT DO YOU THINK THAT THIS STATEMENT MEANS BY CHIEF JUSTICE ROBERTS? THERE IS NO REASON TO SUPPOSE THAT THE STATE WILL EVER BE LEFT FULLY ZEALOUS IN ITS EFFORTS TO SECURE THE TAX REVENUE THAT IT NEEDS.

I TO OK THAT AS BEING A LITTLE FACETIOUS.

CHIEF JUSTICE: THE SAME CANNOT BE SAID FOR THE STATE'S EFFORTS TO ENSURE THAT ITS CITIZENS RECEIVE PROPER NOTICE BEFORE THE STATE TAKES ACTION AGAINST THEM, WHICH IN THIS CASE THE STATE IS EXERCISING EXTRAORDINARY POWER AGAINST A PROPERTY OWNER, TAKING AND SELLING A HOUSE THAT HE OWNS, SO WHETHER THEY ARE BEING FACETIOUS OR IT IS A PART OF THE HOLDING, WHAT IS THAT TELLING US ABOUT WHAT TYPE OF EFFORT, LET ME FINISH --

THEY NEED TO DO MORE -- I AM SORRY.

CHIEF JUSTICE: YES. ABOUT THE EFFORT THAT THE GOVERNMENT NEEDS TO TAKE BEFORE THEY CAN DEPRIVE A PROPERTY OWNER OF HIS OR HER HOME? WHAT, SO THEY HAVE TO DO MORE THAN JUST --

THAN JUST SERVICE. THAT IS WHERE WE ARE AT. I MEAN, IF YOU TAKE IT IN THE LINE, MALAIGN CAME OUT SAYING THAT JUST PUBLISHING IN THE NEWS PAPER, INTERESTING THEY EMPHASIZE THE FACT NOT ONLY IS IT IN A NEWSPAPER AND A NEWS PAPER LOCALLY THAT MOST PEOPLE WOULD READ, BUT YOU ARE NOT EVEN NAMING THE RIGHT DEFENDANTS WHOSE RIGHTS YOU ARE DEPRIVING, SO MALAIGN STANDS FOR THE POINT OF VIEW PUBLICATION ALONE ISN'T GOOD. THE ONE WE CAME UP TO THE MENNONITE CASE, AND NOW WE HAVE PUBLICATION AND WE HAD SERVICE ON THE HOME OWNER, AND WE HAD THE NAME OF THE DEFENDANT COMPLAINING, WHICH IS THE MORTGAGE GEE. BUT, AGAIN -- THE MORTGAGEE, BUT, AGAIN, THE SUPREME COURT SAID YOU MAY HAVE HAD THE NAME IN THE UP IN BUT THAT PRESUMES -- NAME IN THE UP IN, BUT THAT -- IN THE NEWSPAPER, BUT THAT PRESUMES THAT THEY ARE LOOKING AT THAT NEWSPAPER, AND THAT THE HOMEOWNER MIGHT TELL THEIR LENDER THAT THEY GOT THIS NOTICE.

JUSTICE: LET ME COME BACK TO YOUR SUGGESTION EARLIER THAT THIS IS A FACTUAL ISSUE AND THAT IT SHOULD TURN ON, AM I CORRECT THAT THE TRIAL COURT HERE FOUND THAT THE ROSADO'S FAILURE TO RECEIVE NOTICE WAS COMPLETELY THE FAULT OF THE TAXING AGENCIES, BECAUSE THEY FAILED TO UPDATE THE ROSADO'S ADDRESS, DESPITE RECEIVING NOTIFICATION OF THE ROSADO'S NEW ADDRESS? DID THE TRIAL COURT MAKE THAT FIND SOMETHING.

THAT IS THE CONCLUSION THE COURT REACHED, YES.

JUSTICE: THE TRIAL COURT.

YES, SIR .

JUSTICE: NOW, IS THAT A CORRECT CONCLUSION?

I DON'T AGREE WITH THAT CONCLUSION.

JUSTICE: IT IS A FACTUAL FINDING , AND IF YOU AGREE THAT IT TURNS ON A FACTUAL FINDING , HOW CAN YOU ESCAPE THE IMPACT, THEN, OF A FACTUAL FINDING THAT SAYS THAT THIS WAS COMPLETELY THE FAULT OF THE TAXING AGENCIES BECAUSE THEY FAILED TO UPDATE THE CHANGE OF ADDRESS? ISN'T THAT , ISN'T THAT THE END OF THE CASE UNDER A FACTUAL ISSUE RULE?

I DON'T THINK SO , BECAUSE THE FINDING THAT IT WAS THE FAULT OF THE TAXING DEPARTMENT THAT THERE WAS A CHANGE IN THE ADDRESS , DOESN'T CORRELATE DIRECTLY TO , AND IS THAT A DEPRIVEMENT OF DUE PROCESS. WHAT IS AT ISSUE TODAY IS THE FACT THAT THE CLERK WHO IS WHO THE SUPREME COURT OF THE UNITED STATES KEYS IN ON , IN JONES, SAYS --

JUSTICE: WHAT DO WE DO WITH THAT FACTUAL FINDING IN THIS CASE?

YOU HAVE TO ASSESS THAT AS IT IMPACTS ON THE ISSUE OF DUE PROCESS YOU HAVE TO DETERMINE WHETHER OR NOT --

JUSTICE: SO YOU HAVE TO ACCEPT THE CORRECTNESS OF IT.

I DON'T .

JUSTICE: HOW CAN YOU AVOID ACCEPTING THE CORRECTNESS OF IT?

BECAUSE OF THE FACT THAT THOSE TWO LETTERS WERE NOT SENT TO THE TAXING AUTHORITY. THAT IS WHY -- MY WHOLE POINT. THE WHOLE POINT IS IF YOU ALLOW LETTERS TO BE SENT OUT , ONE TO THE UNITED STATES POST OFFICE AND ONE TO THE U .S. COAST GUARD AND NOW THE I.R.S. SHOULD BE RESPONSIBLE FOR KNOWING BECAUSE THEY HAVE ASKED THEM TO CHANGE THEIR ADDRESS IN THE TAX DEPARTMENT!

JUSTICE: THAT IS NOT THE FACTS HERE, AND THIS TRIAL COURT KNEW WHERE THIS LETTER HAD BEEN SENT HERE , CORRECT?

THIS LETTER WAS SENT TO THE CLERK OF THE COURT.

JUSTICE: RIGHT .

BUT THE CLERK OF THE COURT DOESN'T MAINTAIN ANY FILES.

JUSTICE: WHAT ABOUT THE LETTER TO THE TAX COLLECTOR?

THE TAX COLLECTOR DOESN'T CHANGE ADDRESSES. THE TAX COLLECTOR ONLY TAKES THE INFORMATION ON THE TAX ROLL .

JUSTICE: WHO CERTIFIES THE INFORMATION ON THE TAX ROLLING?

THE ON -- THE TAX ROLL?

THE TAX ASSESSOR AND THE TAX COLLECTOR.

JUSTICE: WHAT IS THE CERTIFICATION?

THE CERTIFICATION OF THE TAX COLLECTOR IS THAT THEY CERTIFY THAT, AFTER HAVING DONE A TITLE SEARCH, THESE ARE THE INDIVIDUALS ENTITLED TO NOTICE, AND THESE ARE THEIR ADDRESSES.

JUSTICE: AND IF THIS HOMEOWNER SENDS THE NOTICE TO THAT TAX COLLECTOR THAT THIS IS MY NEW ADDRESS, AND ON THAT LETTER IT INCLUDES THE PROPERTY I.D. NUMBER, WHY IS THAT NOT SUFFICIENT?

BECAUSE FIRST OFF, AGAIN, THE TAX COLLECTOR DOES NOT CHANGE ADDRESSES. ROSADO S DON'T ARGUE IT, THE DCA ARGUES --

JUSTICE: SO BASICALLY YOUR ARGUMENT IS IT IS OKAY FOR THE GOVERNMENT TO SEND A CERTIFIED LETTER TO A HOME THAT MAY BE LEASED AND IT MAY BE A TEMPORARY OCCUPANT OF THAT HOME, AND THERE IS SOME REASONABLE BASIS TO ASSUME FOR DUE PROTEST THAT THAT NONOWNER HAS AN OBLIGATION OR DUTY TO GIVE IT TO THE OWNER, BUT THE GOVERNMENT WHO RECEIVED TWO LETTERS TO THE CLERK OF THE COURT AND THE TAX COLLECTOR, THAT THERE IS NO OBLIGATION OF THE TAX COLLECTOR TO CHANGE IT OR SIMPLY FORWARD THE LETTER TO THE PROPERTY APPRAISER?

NO. I THINK THAT YOU HAVE TO BE JUST AS FACT-SPECIFIC. YOU KEEP HAMMERING THAT --

CHIEF JUSTICE: MR. SAPIENCE A, FIRST OF ALL YOU SHOULD STAY CLOSE TO THE PODIUM. I WANT TO REMIND YOU AND YOU ARE VERY ENERGIZED BY THIS, THAT YOU ARE WELL INTO YOUR REBUTTAL. YOU ONLY HAVE TWO MINUTES LEFT, SO PLEASE RESPOND TO JUSTICE BELL'S, AND THEN YOU MAY WANT TO SAVE THE REST OF YOUR TIME.

IT IS VERY FACT-SPECIFIC. THIS ISN'T SOME OCCUPANT WHO IS LIVING AT SOME PROPERTY THAT WE SUPPOSE THE OWNER MIGHT GET IT. WE HAVE THE OWNER'S FATHER. WE HAVE THE OWNER'S FATHER AND HIS NURSE THERE. SOMEONE BETWEEN THE TWO OF THEM SIGNED FOR THIS, BECAUSE THE MAIL MAN COMES TO THE FRONT DOOR. OKAY. THEY ACCEPT THAT LETTER. NOW, YOU WANT TO ASSUME THAT THAT PERSON THREW THAT LETTER AWAY AND DIDN'T GIVE IT TO THE ROSADO S, AND THE ROSADO S COME TO VISIT THEIR FATHER, THEY TOTALLY DON'T SEE THE POSING OF THE SIGN IN THE FRONT -- THE POSTING OF THE SIGN IN THE FRONT.

CHIEF JUSTICE: NOW WE ARE GOING TO THE FACT THAT THE SHERIFF TOLD THE CLERK THAT THE ROSADO S DIDN'T LIVE THERE.

HE EXPLAINED THAT --

CHIEF JUSTICE: IF YOU WANT TO SAVE THE REST OF YOUR TIME FOR REBUTTAL, YOU NOW HAVE A MINUTE.

HE WENT AND SAID THAT BECAUSE THAT SECTION PLANNED WHY HE POSTED AND THAT WAS HIS REASON FOR MAKING THAT STATEMENT. THAT WASN'T AN ALARM -- THAT WASN'T AN ALARM.

JUSTICE: HOW WOULD THE AVERAGE SIT EXCEPT NOW WHERE TO SEND SUCH A NOTICE OF CHANGE OF ADDRESS? WE HAVE THESE PEOPLE AT LEAST ATTEMPTING TWICE TO SEND IT TO A GOVERNMENT OFFICIAL, THEIR CHANGE OF ADDRESS. HOW WOULD THEY KNOW? HOW WOULD I KNOW? HOW WOULD ANYONE KNOW?

IT IS VERY EASY. EVERY YEAR WHEN YOU GET YOUR TAX BILL, AND BY THE WAY THEY DIDN'T PAY THEIR '97, '98 OR '99 TAX BILLS. THAT IS TWO OTHER YEARS THAT THEY DIDN'T SEND THEIR TAXBILLS IN, AND I SAY THAT FOR BLAME, BECAUSE ON THE TAX BILL IT SAYS SENDING A

PAYMENT, HERE IS A BOX FOR CHANGE OF ADDRESS. MAIL IT BACK TO US. WE ARE GOING TO CHANGE YOUR ADDRESS AND GUESS WHAT? THE TAX ASSESSOR WILL GET THAT LETTER AND GET THAT CHECK AND HE WILL CHANGE HIS TAX ROLLS.

JUSTICE: SO A LETTER TO THE TAX DEPARTMENT. NO ONE TAKES ANY RESPONSIBILITY FOR GIVING IT TO THE TAX ASSESSOR'S OFFICE.

CHIEF JUSTICE: YOU MAY ANSWER THE QUESTION AND THEN YOU ARE OUT OF YOUR TIME.

THANK YOU. I DO NOT BELIEVE THAT IT IS THE DUTY OF THE CLERK TO FORWARD THAT LETTER TO THE TAX ASSESSOR OR APPRAISER'S OFFICE, ESPECIALLY WHEN THE LETTER DOESN'T SAY THAT IS WHERE IT IS GOING.

CHIEF JUSTICE: THANK YOU VERY MUCH.

MAY IT PLEASE THE COURT. GOOD MORNING. MY NAME IS SHERRI DeWITT AND I REPRESENT THE ROSADOS. THERE ARE BASICALLY THREE THINGS THAT THE TAXING AUTHORITIES DID WRONG IN THE ROSADO CASE. ONE IS --

JUSTICE: BEFORE WE GET TO THEM LET'S START WHERE WE ENDED WITH YOUR OPPONENT HERE, THAT IS WHY DID NOT THE ROSADOS SEND THEIR NOTICE TO THE TAX APPRAISER, PURSUANT TO WHAT HE CLAIMS CHRAIMS TO BE WHEN THEY GET -- HE CLAIMS TO BE WHEN THEY GET THEIR NOTICE OF TAXES, THE SPECIFIC PLACE, ADDRESS ON IT THAT SAYS WHERE YOU SEND A CHANGE OF ADDRESS. WHY DIDN'T THEY SEND THEIR NOTICE TO THIS SPECIFIC ADDRESS?

THEY ACTUALLY WERE MORE DILIGENT THAN THAT. THEY KNEW THEY WERE GOING TO BE MOVING, AND THEY KNEW THAT HER ELDERLY FATHER AND A CARE GIVER WERE GOING TO BE THERE WHO DID NOT SPEAK ENGLISH, SO BEFORE THEY GOT THEIR NEW TAX BILL, BEFORE THEY MOVED, THEY SENT THE LETTER TO THE CLERK, TO THE TAX COLLECTOR. BEFORE THEY MOVED. THEN THEY MOVED. SO THE BILL CAME TO THE OLD ADDRESS BECAUSE THE TAX COLLECTOR NEVER CHANGED THE ADDRESS, SO THEY NEVER GOT THAT LETTER, AFTER THEY DISCOVERED THEY WERE GOING TO MOVE, THEY NEVER GOT THAT LITTLE FORM THAT OPPOSING COUNSEL IS TALKING ABOUT, IN ORDER TO SIGN AND FILL OUT.

JUSTICE: IS YOUR OPPONENT CORRECT THAT THEY WERE SEVERAL YEARS IN ARREARS WITHOUT PAYING TAXES ON THE PROPERTY?

WHAT HAPPENED WAS TAX CERTIFICATE WAS ISSUED FOR NONPAYMENT OF 1997 TAXES AND IN 1997 THEY REFINANCED THEIR HOME. THEY WERE UNDER THE IMPRESSION THAT AS PART OF THE REFINANCE, THE TAXES WERE PAID. FROM A FACTUAL STANDPOINT WE COULD NEVER FIND THE CLOSING STATEMENT. WE DIDN'T KNOW WHETHER OR NOT THEY WERE ACTUALLY PAID. BUT ANYWAY, THEY ASSUMED FOR THE PURPOSES OF THE CASE THAT THEY WEREN'T PAID. IT WAS IN 1998 THAT THEY SENT THE FIRST NOTICE TO THE TAX COLLECTOR, WHEN THEY HADN'T RECEIVED ANYTHING. WHEN THEY STILL HADN'T RECEIVED ANYTHING, THEY CALLED AND SAID, WHERE DO WE SEND THIS NOTICE TO? WE STILL HAVEN'T RECEIVED ANYTHING.

JUSTICE: I AM NOT CERTAIN I UNDERSTAND. ARE YOU SAYING THAT, WELL, HOW MANY YEARS WERE THEY IN ARREARS IN BACK TAXES?

THERE WAS ACTUALLY NO TESTIMONY ELICITED IN WITH REGARD TO THAT. THE CLERK'S RECORDS AND OPPOSING COUNSEL INDICATE THAT IT WAS 1997, 1998 AND 1999.

JUSTICE: I AM NOT SURE, YOU SAID INITIALLY THAT THEY BELIEVED THAT THE TAX BILLS WERE BEING SENT TO THE FINANCIER OF THE THING?

CORRECT.

JUSTICE: AND THEY REFINANCED?

CORRECT.

JUSTICE: I AM TRYING TO RECONCILE THAT WITH , THEN WHY WOULD THEY SEND A NOTICE AFTER CHANGE OF ADDRESS, IF THEY THOUGHT THE TAX WAS BEING PAID BY SOMEBODY ELSE?

JUST IN 1997. THEY THOUGHT 1997'S TAXES WERE PAID AS PART OF THE REFINANCING. THE TAXES WEREN'T BEING CORRODED.

JUSTICE: I DIDN'T -- BEING ESCROWED.

JUSTICE: I DIDN'T UNDERSTAND YOUR ANSWER. DOES THE RECORD REFLECT THAT TAXES WERE NOT PAID IN 1997 , 1998 AND 1999. IS THAT IN THE RECORD OR JUST SOMEBODY MAKING ARGUMENT?

THERE IS NO TESTIMONY.

JUSTICE: WERE THERE DOCUMENTS? WERE THERE EXHIBITS?

THAT IS WHAT THE EXHIBITS REFLECT, THERE WERE TAX CERTIFICATE THAT WERE ISSUED FOR THOSE DATES.

JUSTICE: SO THERE WERE TAX CERTIFICATE THAT WERE ISSUED SO IN FACT THEY HAD NOT PAID THOSE TAXES.

CORRECT.

JUSTICE: DID THEY RECEIVE NOTICE OF THE DELINQUENCY?

THAT IS THE WHOLE POINT. HAD THE TAX COLLECTOR CORRECTLY REFLECTED THEIR NEW ADDRESS , THEY WOULD HAVE RECEIVED NOTICE BUT , NO , THEY DID NOT RECEIVE NOTICE OF THOSE DELINQUENCIES , AND THAT IS WHAT --

JUSTICE: THERE WAS NO NOTICE THAT WAS SENT TO THE OLD ADDRESS.

CORRECT. ALL OF THE NOTICES WERE SENT TO THE OLD ADDRESS.

CHIEF JUSTICE: SO YOU WERE STARTING YOUR ARGUMENT ON THE THREE THINGS THE TAXING AUTHORITIES DID WRONG. DO YOU WANT TO SEE IF YOU CAN PICK UP THERE.

YES. THE FIRST THING IS, WHEN THEY SENT THE CERTIFIED LETTER TO THE ROSADO'S ADDRESS, IT WAS SIGNED, BUT IT WAS CLEAR, THE SIGNATURE WAS CLEAR AND THE CLERK TESTIFIED THAT THEY COULD READ THE SIGNATURE. IT WAS NOT THE ROSADO'S. IT WAS CLEARLY A DIFFERENT NAME , SO IT IS CLEARLY NOT SIGNED BY THE ROSADO'S. THAT IS THE DIFFERENCE THAT I THINK OPPOSING COUNSEL WAS TRYING TO MAKE BETWEEN THE JONES V FLOWERS CASE FACTUALLY TO THIS CASE. IN JONES V FLOWERS, THE CERTIFIED RECEIPT WAS UNCLAIMED. IT CAME BACK.

CHIEF JUSTICE: BUT IF WE DIDN'T HAVE THE LETTERS THAT THE ROSADO'S SENT , JUST ON THIS FIRST ISSUE, A CLERK SENDS A CERTIFIED LETTER TO WHAT THE CLERK BELIEVES TO BE THE PROPER ADDRESS. SOMEONE SIGNED FOR IT. ARE YOU SAYING THAT, BECAUSE OF JONES OR SOME OTHER DUE PROCESS , THAT THAT ALONE , NOT BEING SIGNED BY THE ACTUAL PROPERTY OWNER , SHOULD PUT THE CLERK ON NOTICE THAT THEY HAVE GOT TO DO SOMETHING MORE?

YES.

CHIEF JUSTICE: WHAT CASE DO YOU THINK --

JONES V FLOWERS.

CHIEF JUSTICE: JONES V FLOWERS SAYS THAT NO BODY, IT WAS RETURNED UNCLAIMED .

THE REASON JONES V FLOWER IS BECAUSE IF THE TAXING AUTHORITY HAD REASON TO BELIEVE THAT THE PROPERTY OWNER DID NOT RECEIVE NOTICE , THEN THEY HAVE THE OBLIGATION TO TAKE REASONABLE ADDITIONAL STEPS .

CHIEF JUSTICE: SO THAT YOU, AGAIN , THIS CASE WITHOUT THE ROSADOS SENDING THE TWO LETTERS, SHOULD HAVE THE SAME OUTCOME?

YES.

CHIEF JUSTICE: DO WE HAVE TO GET THERE IN ORDER TO ACHIEVE THE RESULT?

NO AND THAT IS WHAT I WAS TRYING TO SAY IS THERE WERE THREE DIFFERENT BASIS , THREE DIFFERENT THINGS THAT EACH AND EVERY ONE OF THEM, INDEPENDENTLY OF THE OTHER , PROVIDES A VIOLATION OF DUE PROCESS.

JUSTICE: AGAIN YOU WERE ASKED ABOUT THE AUTHORITY. YOU SAID JONES, AND THE CHIEF HAS REMINDED YOU THAT THE FACTS OF JONES ARE FAR DIFFERENT. WHERE IS THERE ANY AUTHORITY THAT PUTS THE RESPONSIBILITY ON THE TAXING PEOPLE, NOW , TO CAREFULLY EXAMINE THE SIGNATURE THAT MAY BE THERE THAT ACCEPTED THIS AND SAYS FIRST OF ALL , WHETHER THEY CAN EVEN READ THE WRITING .

SURE.

JUSTICE: WHERE IS THERE SOME AUTHORITY THAT SAYS THAT EACH OF THOSE THAT COME BACK NOW, THAT THEY HAVE TO CAREFULLY EXAMINE TO BE CERTAIN THAT THE PERSON THAT SIGNED FOR IT IS THE TAXPAYER THAT IT WAS ADDRESSED TO.

IN THIS CASE, THEY DIDN'T HAVE TO CAREFULLY EXAMINE IT. THEY COULD JUST LOOK AT IT AND SEE.

JUSTICE: I AM NOT ASKING YOU THAT QUESTION. I AM ASKING YOU WHERE IS THE AUTHORITY THAT THEY HAVE TO CAREFULLY EXAMINE THE SIGNATURE ON IT?

THERE ISN'T ANY, BUT WHAT THE COURT HAS IN THIS CASE , THAT BRINGS INTO PLAY THE JONES V FLOWERS CASE , IS THE SHERIFF TOLD THE CLERK THE ROSADOS NO LONGER LIVE THERE. THAT PUTS THE CLERK ON NOTICE THAT , THE NOTICE TO THE ROSADOS , THAT THEY HAD GIVEN ADEQUATE NOTICE.

JUSTICE: YOU WENT TO ANOTHER POINT AS OPPOSED TO STICKING WITH , I AM HAVING DIFFICULTY WITH YOUR FIRST PROPOSITION THAT YOU SAID THE CASE COULD BE DECIDED ON , AND THAT IS THAT THE SIGNATURE WASN'T THE SIGNATURE OF THE TAXPAYER .

I DON'T THINK , I DON'T THINK I MADE MYSELF CLEAR. THE ONE ARGUMENT IS UNDER JONES V FLOWERS, BECAUSE THE CLERK HAD REASON TO BELIEVE THAT THEY DIDN'T RECEIVE NOTICE. THERE ARE TWO REASONS WHY THE CLERK HAD REASON TO BELIEVE THAT. ONE WAS THE CERTIFIED MAIL CAME BACK NOT SIGNED BY THEM. THE OTHER WAS THAT THE CLERK WAS TOLD THEY NO LONGER LIVE THERE.

CHIEF JUSTICE: SO NOW YOU CLARIFIED SOMETHING, BECAUSE I ASKED YOU, WOULD YOU THINK THAT THERE SHOULD BE A RULE OF LAW THAT IF IT IS SIGNED FOR , THAT THAT ALONE PUTS THE CLERK ON NOTICE THAT THE ACTUALLY, IF IT IS SIGNED BY SOMEONE OTHER THAN THE TAXPAYER, THAT THAT ALONE SHOULD PUT THEM ON NOTICE. I THOUGHT YOU SAID YES, AND NOW YOU ARE SAYING, IS THAT IN COMBINATION WITH WHAT THE SHERIFF SAID?

IN THIS CASE IT IS THAT IN COMBINATION WITH WHAT THE SHERIFF SAID, SO YOU HAVE THOSE TWO FACTS TOGETHER . SO YOU DON'T HAVE TO ANSWER THE FIRST QUESTION. MY OPINION WOULD BE THAT , YES, IF THE NOTICE WERE CLEAR , THAT IT WAS NOT SIGNED BY THE TAXPAYER , THEN THAT SHOULD PUT THE CLERK ON NOTICE. BUT YOU DON'T HAVE TO ANSWER THAT ONE QUESTION , BECAUSE YOU HAVE THE TWO FACTUAL ISSUES HERE , AS FAR AS JONES.

CHIEF JUSTICE: AND THE THIRD? WHAT IS THE THIRD?

THERE IS A SECOND ONE. THE SECOND ONE IS THAT THE ROSADOS GAVE NOTICE TO BOTH THE TAX COLLECTOR AND THE CLERK. EVEN UNDER THE DISSENT IN JONES V FLOWERS , THE DISSENT DISSENTS IN LARGE PART BECAUSE THE CLERK SENT THE NOTICE TO THE ADDRESS PROVIDED TO THE TAXING AUTHORITIES BY THE TAXPAYER. THAT WAS THE BASIC RATIONALE FOR THE COURT'S DISSENT IN JONES V FLOWERS. IN THIS CASE, THEY DIDN'T SEND THE NOTICE TO THE ADDRESS PROVIDED BY THE TAXPAYERS.

CHIEF JUSTICE: WHAT WAS THE TESTIMONY OF THE ROSADOS AS TO WHY IN ONE YEAR THEY SENT A LETTER TO THE TAX COLLECTOR AND THEN AN OTHER YEAR THEY SENT IT TO THE CLERK , AND ONE THEY SENT CERTIFIED , RETURN RECEIPT. WHAT WAS THEIR TESTIMONY AS TO WHAT THEY DID AND WHY K.

WELL , THE FIRST TIME THEY EXTENT -- THEY SENT IT TO THE TAX COLLECTOR BECAUSE THEY TRADITIONALLY GOT THEIR TAX BILLS FROM THE TAX COLLECTOR .

CHIEF JUSTICE: BUT THEIR INTENT IN SENDING IT TO THE TAX COLLECTOR WAS TO UPDATE THE FILE.

EXACTLY AND THAT IS WHAT A REASONABLE PERSON WOULD DO. YOU GET YOUR BILLS FROM THE TAX COLLECTOR. YOU ARE GOING TO MOVE. YOU GIVE THE CHANGE OF ADDRESS TO THE TAX COLLECTOR.

CHIEF JUSTICE: ALL RIGHT.

WHEN THEY DIDN'T RECEIVE ANYTHING BACK, THEY SAID WAIT A MINUTE. WE WANT TO BE SURE WE GOT THE CORRECT ADDRESS. MAYBE WE SENT IT TO THE WRONG PLACE. THEY ACTUALLY CALLED THE CLERK OF COURT AND THEY ASKED WHERE DO WE SEND THIS TO. THE CLERK --

CHIEF JUSTICE: THEY ASKED WHERE DO WE SEND IT TO BECAUSE WE WANT UPDATES FOR TAX PURPOSES?

EXACTLY. EXACTLY. AND THAT IS WHY THE CLERK OF COURT SAID CLERK OF COURT ATTENTION TAX DEPARTMENT, AND THAT IS WHERE THEY SENT IT .

CHIEF JUSTICE: THEY SENT IT RETURN , WHY DID THEY SAY THEY WERE SENDING IT RETURN RECEIPT?

I BELIEVE THEY ALSO SENT THE FIRST ONE RETURN RECEIPT, BUT WE DIDN'T HAVE THE RETURN RECEIPT SINCE IT WAS OLDER. WE DIDN'T HAVE THE RETURN RECEIPT. SHE COULDN'T FIND IT.

BUT THIS ONE SHE DID HAVE .

CHIEF JUSTICE: AND THE SIGNATURE ACTUALLY HAS ON THERE THAT IT WAS ADDRESSED TO THE CLERK OF COURT ATTENTION PROPERTY TAX DEPARTMENT. IT WAS SIGNED BY SOME BODY THAT WAS PUT DOWN AS AGENT.

YES . BUT I WANTED TO GET TO THE THIRD ARGUMENT, BECAUSE I BELIEVE THERE ARE THREE DIFFERENT BASIS. THE ONE IS UNDER JONES V FLOWERS, GIVEN THE TWO FACTS ABOUT THE RECEIPT BEING SIGNED BY SOMEONE ELSE AND THE SHERIFF NOTIFYING THEM THAT THEY NO LONGER LIVE THERE , AND THE DISSENT 'S VIEW IS THE SECOND ARGUMENT THAT, BECAUSE THEY NOTIFIED THEM, THE ADDRESS WAS NOT WHAT THEY NOTIFIED THEM WHERE IT SHOULD BE SENT , SO IT WASN'T THE ADDRESS THE TAXPAYER PROVIDED , AND THE THIRD IS UNDER THIS COURT'S DECISION IN DELTA , BECAUSE THE FACTS HERE ARE VERY SIMILAR TO THE FACTS IN DELTA. THE CLERK OF THE COURT WAITED OVER 5 MONTHS BETWEEN THE TIME THEY GOT THE TAX COLLECTOR 'S STATEMENT AND THE TIME THEY SENT THE NOTICE TO THE ROSADOS. IN THE MEANTIME , JULY 1 CAME AND WENT, AND JULY 1 IS THE DATE THAT THE TAX COLLECTOR --

JUSTICE: BUT IN THIS CASE , EVEN IF THEY HAD CHECKED WITH THE TAX COLLECTOR 'S OFFICE AFTER THE JULY 1 DATE, THE TAX COLLECTOR HAD NOT CHANGED THE INFORMATION, SO THE DATE , THE ADDRESS WOULD STILL HAVE BEEN THE SAME AS THE ADDRESS ON THE PREVIOUS NOTICE.

THAT IS BECAUSE , BY FAILING TO CHANGE THE ADDRESS AS REQUESTED BY THE TAXPAYER, THE CLERK , THE TAXING AUTHORITIES IN EFFECT MADE IT IMPOSSIBLE TO COMPLY WITH DELTA. BECAUSE OBVIOUSLY THEY SHOULD HAVE CHANGED THE ADDRESS , AND IT WOULD HAVE BEEN REFLECTED ON THE 2000 ROLLS.

CHIEF JUSTICE: BUT IT IS THE TAX, JUST SO WE UNDERSTAND, IT IS THE PROPERTY APPRAISER 'S RESPONSIBILITY, WHOSE RESPONSIBILITY IS IT TO UPDATE ADDRESSES ON THE TAX ROLL?

I SUBMIT , PURSUANT TO THE FLORIDA ADMINISTRATIVE CODE, IT IS ALL THREE 'S RESPONSIBILITY.

CHIEF JUSTICE: LET'S JUST ASSUME THAT WE DON'T INTERPRET THE FLORIDA ADMINISTRATIVE CODE AS YOU HAVE. WHAT ABOUT UNDER THE STATUTES, WHOSE RESPONSIBILITY IS IT?

BOTH THE TAX ASSESSOR AND THE TAX COLLECTOR .

CHIEF JUSTICE: WHAT STATUTE IS IT THAT Delineates THAT -- DELINEATES THAT RESPONSIBILITY?

FLORIDA STATUTE 197.197.0423. A TAX COLLECTOR RECEIVES NOTE FIRST AN ADDRESS IS SUPPLIED TO THE TAX COLLECTOR BY SUCH LIEN HOLDER. THAT IS A LIEN HOLDER. IT IS NOT A PROPERTY OWNER.

CHIEF JUSTICE: LET'S JUST TALK ABOUT WHAT THE LEGISLATURE INTENDS IS THE DUTY. ONE ENTITY OUGHT TO HAVE THE RESPONSIBILITY FOR UPDATING THE TAX ROLLS. ISN'T IT THE PROPERTY APPRAISER THAT HAS THAT RESPONSIBILITY?

I BELIEVE IT MAY BE, YES .

CHIEF JUSTICE: A GAIN , THIS WOULD , YOU WOULD HAVE A TOTAL SLAM DUNK , IF THEY HAD SENT THE THIRD LETTER THEY SENT, AND THEY SENT IT TO THE PROPERTY APPRAISER. I THINK THAT EVEN THE PETITIONER WOULD AGREE WITH YOU ON THAT . THEIR ARGUMENT IS YOU MISSED THE MARK. YOU SENT IT TO TWO OUT OF THE THREE ENTITIES AND YOU MISSED THE

ENTITY THAT IT SHOULD HAVE GONE TO.

AS THE FIFTH CIRCUIT SAID, HOWEVER, THERE IS NO STATUTE, THERE IS NO REGULATION THAT SAYS WHO A TAXPAYER NEEDS TO SEND A CHANGE OF ADDRESS TO, IN ORDER TO EFFECTUATE A CHANGE OF ADDRESS, AND AS IT DOES MAKE SENSE THAT A TAXPAYER WOULD SEND IT TO THE TAX COLLECTOR, BECAUSE THAT IS WHERE THEY GET THEIR BILLS FROM.

CHIEF JUSTICE: DID THE PERSON THAT SIGN FOR IT, DID THAT PERSON TESTIFY IN THE HEARING BELOW AS TO GETTING THE NOTICE AND WHAT HE OR SHE WOULD HAVE DONE WITH IT?

NO. THE PERSON DIDN'T TESTIFY AT ALL.

CHIEF JUSTICE: BUT PRESUMABLY, THEY HAVE TO FILE IT SOMEWHERE. I MEAN, TO ASK WHAT THE REGULAR PRACTICE IS WHEN THERE IS A CHANGE OF ADDRESS RECEIVED BY ONE OF THE, TWO OF THE THREE ENTITIES THAT IS RESPONSIBLE FOR SOME ASPECT OF THE TAXES?

I DID. I ASKED WHAT HAPPENED WHEN THE PERSON WHO SIGNED THE RECEIPT FOR THE CLERK'S DEPARTMENT, WHAT THEY DID WITH IT AND THEY SAID THEIR POLICY WAS TO FORWARD IT TO THE CORRECT DEPARTMENT.

JUSTICE: TO WHAT?

TO FORWARD IT TO THE CORRECT.

CHIEF JUSTICE: WHAT WAS THE AMOUNT OF UNPAID TAXES?

APPROXIMATELY \$2,000.

CHIEF JUSTICE: WHAT WAS THE VALUE OF THIS PROPERTY? WHAT WAS THE TESTIMONY AS TO THE VALUE OF THE PROPERTY?

I DON'T REMEMBER THE VALUE. THE AMOUNT OF EQUITY IN IT WAS ABOUT \$70,000, AND THE AMOUNT OF THE BID WAS APPROXIMATELY \$27,000.

JUSTICE: WHAT WAS THE REASON A MEMORANDUM IN THE FILE FROM THE PROPERTY APPRAISER'S OFFICE TO THE CLERK'S OFFICE, ASKING IT TO CERTIFY THREE THINGS, THE LAST OF WHICH IS WHETHER OR NOT THERE HAS BEEN A CHANGE OF ADDRESS. WHAT WAS THE TESTIMONY REGARDING THE PURPOSE OF THAT MEMO? DO YOU KNOW WHAT I AM TALKING ABOUT?

WHERE THE CLERK, WHERE THE TAX COLLECTOR, IN THE STATEMENT THAT THEY SEND TO THE CLERK, HAS A "X" TO FILL OUT IF --

TO THE PROPERTY APPRAISER.

YES. THE FORM SHOWS, NO. IT WAS JUST CHECKED.

JUSTICE: WHAT WAS THE PURPOSE OF THE FORM?

WELL --

JUSTICE: WHY DID THE PROPERTY APPRAISER SEND THE FORM AND REQUEST THE INFORMATION FROM THE TAX COLLECTOR?

THE PROPERTY APPRAISER SENT IT TO THE TAX COLLECTOR OR VICE VERSA?

JUSTICE: THERE IS IN THE FILE A MEMORANDUM DATED JUNE 14, 2000, FROM MS. STRICKLAND,

REPRESENTATIVE OF THE PROPERTY APPRAISERS OFFICE TO THE CLERKS OFFICE , THE DELINQUENT TAX REPRESENTATIVE IN THE TAX COLLECTORS OFFICE. EXCUSE ME. ASKING FOR INFORMATION, AND THE ONE AT ISSUE IS PLEASE PROVIDE THE MOST CURRENT ADDRESSES FOR THE -- ADDRESS FOR THE PROPERTY OWNER IF DIFFERENT FROM THE TAX ROLL, AND IF IT IS NOT CHECKED NO , CHANGE. WHAT WAS THE EVIDENCE IN THE RECORD OF WHY THIS DOCUMENT WAS SENT BETWEEN THOSE TWO GOVERNMENTAL DEPARTMENTS?

THERE WASN'T ANY.

JUSTICE: HOW MANY YEARS DID YOUR CLIENTS OWN THIS PROPERTY?

THEY PURCHASED IT IN 1996. THEY REFINANCED IT IN 1997.

JUSTICE: DID THEY PAY THE TAXES FOR ANY YEAR?

IN 1996. AND ALL THE SUBSEQUENT TAXES WERE PAID .

JUSTICE: PARDON?

ALL OF THE SUBSEQUENT TAXES WERE PAID. THEY WERE JUST PAID LATE. THEY WERE PAID AFTER THEY FOUND OUT THAT THEY WERE UNPAID .

JUSTICE: AND YOU TOLD US THAT THERE WAS ONE YEAR THAT THEIR EXPLANATION FOR WHY THEY DIDN'T PAY WAS THAT THEY THOUGHT THE FINANCING COMPANY WAS GOING TO. WHAT WAS THEIR EXPLANATION FOR WHY THEY DIDN'T PAY THE OTHER YEARS?

WELL , THEY DIDN'T KNOW WHY THEY HADN'T RECEIVED ANY BILLS, SO THAT IS WHERE THEY , THAT IS WHERE THEY CALLED AND TRIED TO FIND OUT WHERE THE BILLS WERE. AND AS SOON AS THEY FOUND OUT , THEY DID NOT KNOW , THEY DIDN'T EVEN KNOW THAT THEY WERE SERVED WITH THE QUIET TITLE ACTION , UNTIL AFTER THEY GOT AN EVICTION NOTICE , BECAUSE THEY WEREN'T PROPERLY SERVED PERSONALLY WITH THE QUIET TITLE ACTION , AND IT WASN'T UNTIL THEY GOT AN EVICTION NOTICE ON THEIR DOOR THAT THEY REALIZED THAT ANY OF THIS HAD HAPPENED.

CHIEF JUSTICE: YOU HAD SET FORTH IN FOOTNOTE TWO OF YOUR BRIEF , HOLD WHAT YOU DESCRIBE AS A COMEDY OF ERRORS THAT WERE SUBMITTED BY OTHERS. YOU TALK ABOUT THAT , WHETHER OR NOT THERE WAS SOME CONFUSION , THAT THE MORTGAGE COMPANY WASN'T GIVEN AN OPPORTUNITY EITHER.

THAT'S CORRECT.

CHIEF JUSTICE: THE --

THEY ORIGINALLY FINANCED WITH FORD CREDIT IN 1996. THE MORTGAGE IN THE FORD CREDIT HAD FORD CREDIT'S ADDRESS ON IT. THEY REFINANCED WITH FORD CREDIT IN 1997. IT HAD THE SAME ADDRESS ON IT BUT THE TITLE COMPANY CROSSED OFF THE ADDRESS. YOU COULD STILL SEE IT. IT WASN'T BLACKED OUT JUST AN X . YOU COULD STILL SEE IT BUT PUT THE TITLE COMPANY 'S ADDRESS THERE INSTEAD, SO THE TAX COLLECTOR DIDN'T FEEL THE NEED TO GIVE THE MORTGAGE COMPANY'S ADDRESS TO THE CLERK TO SEND THE NOTICE TO , BECAUSE IT WASN'T ON THE MORTGAGE IS WHAT THEY SAID, AND NO OBLIGATION TO SEND IT TO THE TITLE COMPANY, SO THE MORTGAGE COMPANY DIDN'T GET NOTICE , EITHER , AND THE MORTGAGE COMPANY DIDN'T NOTIFY THE ROSADOS OBVIOUSLY , BECAUSE THEY DIDN'T GET NOTICE .

JUSTICE: AM I CORRECT THAT THE TRIAL COURT FOUND THAT THE ONLY REASON YOUR CLIENT DIDN'T RECEIVE THE NOTICE IS BECAUSE THE OFFICIALS DIDN'T HONOR THE LETTERS THAT

NOTIFIED THE CHANGE. THAT WAS A FACTUAL FINDING MADE BY THE TRIAL COURT.

YES, IT WAS. YES, IT WAS.

JUSTICE: WHAT IS THE REAL STATUS OF THIS NOW , OF THIS PROPERTY?

WELL , IT IS IN A STATE OF LIMBO. RIGHT NOW THERE WAS AN AGREEMENT BETWEEN OPPOSING COUNSEL AND I THAT MY CLIENT S ELDERLY FATHER AND CARETAKER WOULD CONTINUE TO RESIDE IN THE PROPERTY AND PAY BASICALLY A REASONABLE RENTAL RATE INTO THE REGISTRY OF THE COURT, PENDING A DETERMINATION.

CHIEF JUSTICE: THINKING OF THE MOVIE, THE BOOK , "THE HOUSE OF SAND AND FOGG" , SO THIS MIGHT MAKE AN OTHER MOVIE. THANK YOU VERY MUCH. THE COURT WILL TAKE THAT UNDER ADVISEMENT