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Paschall v. Christie-Stewart, Inc.

414 U.S. 100 (1973)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



✓
Supreme Court of the United States
Washington, D. C. 20540

CHAMBERS OF
THE CHIEF JUSTICE

October 29, 1973

Re: No. 72-922 - Mary Louise Green Paschall, et al v.
Christie-Stewart, Inc., et al

Dear Harry:

Please join me.

Regards,



Mr. Justice Blackmun

Copies to the Conference.

To : The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

1st DRAFT

SUPREME COURT OF THE UNITED STATES

From: Douglas, J.

Circulate: 11-13

No. 72-922

Recirculated: _____

Mary Louise Green Paschall
et al., Appellants.
v.
Christie-Stewart, Inc., et al. } On Appeal from the Supreme Court of Oklahoma.

[November —, 1973]

MR. JUSTICE DOUGLAS, dissenting.

Appellants claim title to the mineral interests here in controversy through deeds recording the severed interests on the books of the Seminole County Clerk in 1926 and 1930. In 1952 the owner of the separate surface interest failed to pay ad valorem taxes and the county satisfied its tax claim by selling the entire fee to the appellees after "notice" through newspaper publication. The tax sale statutes did not require that notice be given to the mineral owners by way of personal service, mailing or posting and no such notice was attempted. In an action to quiet title appellants contended that, as record owners of the mineral rights, they were never given constitutionally sufficient notice of the tax delinquency proceedings and as to them the proceedings were invalid. See *Mullane v. Central Hanover Bank & Trust Co.*, 339 U. S. 406 (1950).

The trial court, finding the tax sale proceedings valid and finding appellants' attack on the tax sale deed barred by the statute of limitations, quieted title in appellees. The Oklahoma Court of Appeals reversed that judgment but was itself reversed by the Oklahoma Supreme Court, each court addressing itself expressly only to the constitutional claim. The Court today remands the case to determine whether appellants adequately preserved the

To : The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-922

Circulate: _____

Recirculated: 11-14

Mary Louise Green Paschall
et al., Appellants.
v.
Christie-Stewart, Inc., et al. } On Appeal from the Supreme Court of Oklahoma.

[November —, 1973]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE STEWART concurs, dissenting.

Appellants claim title to the mineral interests here in controversy through deeds recording the severed interests on the books of the Seminole County Clerk in 1926 and 1930. In 1952 the owner of the separate surface interest failed to pay ad valorem taxes and the county satisfied its tax claim by selling the entire fee to the appellees after "notice" through newspaper publication. The tax sale statutes did not require that notice be given to the mineral owners by way of personal service, mailing or posting and no such notice was attempted. In an action to quiet title appellants contended that, as record owners of the mineral rights, they were never given constitutionally sufficient notice of the tax delinquency proceedings and as to them the proceedings were invalid. See *Mul-lane v. Central Hanover Bank & Trust Co.*, 339 U. S. 406 (1950).

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR. October 26, 1973

RE: No. 72-922 Paschall v. Christie-Stewart

Dear Harry:

I agree with the Per Curiam you have
prepared in the above.

Sincerely,

Biegl

Mr. Justice Blackmun

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

November 13, 1973

No. 72-922, Paschall v. Christie-Stewart, Inc.

Dear Bill,

Please add my name to your dissenting
opinion in this case.

Sincerely yours,

P.S.

Mr. Justice Douglas

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

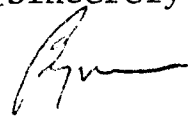
October 25, 1973

Re: No. 72-922 - Paschall v. Christie-Stewart, Inc.

Dear Harry:

Please join me.

Sincerely,



Mr. Justice Blackmun

Copies to Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

October 29, 1973

Re: No. 72-922 -- Paschall v. Christie-Steward, Inc.

Dear Harry:

Please join me in your Per Curiam in this case.

JM

T. M.

Mr. Justice Blackmun

cc: The Conference

To: ~~X~~The Chief Justice
 Mr. Justice Douglas ✓
 Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice White
~~X~~ Mr. Justice Marshall
~~X~~ Mr. Justice Powell
 Mr. Justice Renquist

2nd DRAFT

From: Blackman, J.

SUPREME COURT OF THE UNITED STATES

Circulated: 10/25/73

Recirculated: _____

No. 72-922

Mary Louise Green Paschall
 et al., Appellants,
 v.
 Christie-Stewart, Inc., et al. } On Appeal from the Supreme Court of Oklahoma.

[November —, 1973]

PER CURIAM.

In this case we noted probable jurisdiction, 411 U. S. 915 (1973), in order to consider whether the published notice provisions of the then applicable Oklahoma tax-sale statutes, Okla. Stat., Tit. 68, §§ 382 and 432b (1951), comported with due process of law guaranteed by the Fourteenth Amendment.¹ See *Mullane v. Central Hanover Bank & Trust Co.*, 339 U. S. 406 (1950). This was the only issue addressed by the appellate courts of Oklahoma² and by the parties in the Jurisdictional Statement and the papers responsive thereto filed with this Court.

After oral argument and upon our review of the record, it now appears that there might have been an independ-

¹ The ad valorem taxes in question were for the year 1952. The original tax sale took place in November 1953 and the resale in May 1956. Okla. Stat., Tit. 68, §§ 383 and 432 (1951). The statutes cited (§§ 382, 383, 432, and 432b) were repealed by Okla. Sess. Laws, 1965, c. 501, § 3, and replaced by corresponding provisions of the State's present Ad Valorem Tax Code, namely, Okla. Stat., Tit. 68, §§ 24312, 24313, 24329, and 24331 (1971).

² See *Christie-Stewart, Inc. v. Paschall*, 502 P. 2d 1265 (Okla. Sup. Ct. 1972). The preceding opinion of the Oklahoma Court of Appeals, Division 2, is not reported; it is reproduced in the Jurisdictional Statement, App. A, p. vii.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

November 28, 1973

MEMORANDUM TO THE CONFERENCE

Re: No. 73-165 - Botens v. Aronauer - List 5, Page 21

This was a hold for No. 72-922, Paschall v. Christie-Stewart, Inc.

The case, in a sense, presents the issue not decided in Christie-Stewart, namely, whether due process is denied when only obscure published notice is given of a real property tax sale. The facts, however, are not nearly so attractive and compelling as were those of Christie-Stewart.

The real estate in question had been sold for taxes once before, and the appellant's husband, as co-owner, had participated in their redemption. He thus was aware of the tax sale process and had taken advantage of the redemption privilege with no more than the same published notice now challenged here. In addition, there is testimony that it was the practice of the county treasurer's office to mail notices to delinquent taxpayers and that the appellant's husband had been sent a notice and afterward (in October 1962) had been mailed a redemption bill. The husband died a month later without having redeemed the property. The appellee denies that she ever received the redemption notice.

These facts, for me, cloud this case. I would prefer to wait for one where the only notice is by publication and where there is no question as to the owner's lack of actual knowledge of the tax sale. I am inclined, therefore, to vote to dismiss this case for want of a substantial federal question.

H. A. B.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

October 30, 1973

No. 72-922 Paschall v. Christie-Stewart, Inc.

Dear Harry:

Please join me in your Per Curiam.

Sincerely,

Lewis

Mr. Justice Blackmun

lfp/ss

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

October 26, 1973

Re: No. 72-933 - Paschall v. Christie-Stewart

Dear Harry:

Please join me in the per curiam you have prepared.

Sincerely,



Mr. Justice Blackmun

Copies to the Conference