REL: June 26, 2020

SUPREME COURT OF ALABAMA

OCTOBER TERM, 2019-2020

1181051

Mark Stiff

v.

Equivest Financial, LLC

Appeal from Jefferson Circuit Court
(CV-18-900776)

MITCHELL, Justice.

Mark Stiff's property was sold at a tax sale that took place inside the Bessemer courthouse instead of "in front of the door of the courthouse" as required by § 40-10-15, Ala. Code 1975. He argues that the sale is void because of that

irregularity. We agree and therefore reverse the circuit court's judgment refusing to set aside the tax sale.

Facts and Procedural History

Mark Stiff and his brother, Jim Stiff, fell behind on the property taxes for their mother Doris Stiff's house in Hoover in 2012. At that time, they were caring for Doris around the clock at Mark's house because the family could no longer afford to pay for her treatment at a nursing home. Doris died in January 2013, and her sons inherited her property. They were unable to pay the delinquent taxes.

On May 21, 2013, Equivest Financial, LLC ("Equivest"), purchased Doris's house for delinquent taxes. After the tax sale, Mark and Jim continued to possess the property, which they rented to tenants. Equivest became entitled to a tax deed three years after the sale, as provided in § 40-10-29, Ala. Code 1975. That deed was issued in March 2017.

On February 23, 2018, Equivest sued Mark and Jim, as well as other defendants who were later dismissed, for ejectment and to quiet title to the property. On April 18, 2018, Mark counterclaimed, seeking judicial redemption of the property and a judgment declaring that the tax sale was void. Jim

filed an answer and a counterclaim seeking the same remedies on August 7, 2018.

The parties proceeded to a two-day bench trial held on June 4 and July 1, 2019. During the trial, Mark's primary strategy was to show that he did not receive from Jefferson County proper notice of the tax delinquency and sale. But in the course of Mark's cross-examination of a witness from the tax collector's office, it was discovered that the tax sale was held in a probate courtroom at the Bessemer courthouse, not in front of the door of the courthouse as required by statute. No evidence was presented contradicting this testimony. At the conclusion of the trial, the trial court directed the parties to submit posttrial briefs. In his posttrial brief, Mark argued that the tax sale was void based on several theories of defective notice and because the sale was not held in front of the door of the courthouse.

On August 13, 2019, the trial court ruled that the tax sale was valid and that Mark and Jim had the right to redeem the property for $87,419.84. Mark appealed.

Standard of Review

Mark makes two arguments on appeal. First, he argues that the trial court erred when it failed to enforce the requirement in § 40-10-15 that a tax sale "be made in front of the door of the courthouse." And second, he argues that Equivest failed to prove that he received notice as required by § 40-10-4, Ala. Code 1975.

We review the sale-location issue de novo. The parties agree that the tax sale was held in a probate courtroom at the Bessemer courthouse, not in front of the courthouse door. They disagree about the legal implications of that fact. When an appeal focuses on the application of the law to undisputed facts, we apply a de novo standard of review. Carter v. City of Haleyville, 669 So. 2d 812, 815 (Ala. 1995).

Because we reverse the judgment of the trial court based on its failure to enforce the requirement of § 40-10-15 that the sale be held "in front of the door of the courthouse," we pretermit discussion of Mark's notice-based argument.

Analysis

Title 40, Chapter 10, Ala. Code 1975 ("the tax-sale statutes"), govern the sale of real property for unpaid taxes.

A tax sale is void unless there is evidence of compliance with all the requirements of the tax-sale statutes. State ex rel. Gallion v. Graham, 273 Ala. 634, 636–37, 143 So. 2d 810, 812 (1962). At times, this Court has insisted on "strict" compliance with the statutory requirements. See, e.g., Gunter v. Townsend, 202 Ala. 160, 167, 79 So. 644, 651 (1918) ("Tax sales, unless made in strict compliance with such statutory requirements, are held void."). At other times, we have said that "substantial" compliance with the tax-sale statutes is sufficient. See, e.g., Laney v. Proctor, 236 Ala. 318, 319, 182 So. 37, 38 (1938) ("[T]he burden is upon the party claiming under a tax title to show the necessary and substantial compliance with all statutory requirements ...."). Sometimes, we have spoken as if there is no difference between "strict" and "substantial" compliance. See, e.g., Drennen v. White, 191 Ala. 274, 277, 68 So. 41, 42 (1915) ("'In the sale of land for taxes, great strictness is required. To divest an individual of his property against his consent, every substantial requirement of the law must be complied with.'" (quoting Dane v. Glennon, 72 Ala. 160, 163 (1882)). Assuming, but not deciding, that a showing of "substantial" compliance

with the tax-sale statutes is all that is required to prove a valid tax sale, we conclude the sale here nonetheless falls short.

In determining what constitutes "substantial compliance" with a statute, our intermediate appellate courts have said:

> "'"Substantial compliance" with a statute means actual compliance in respect to the substance essential to every reasonable objective of the statute. ... It means that a court should determine whether the statute has been followed sufficiently so as to carry out the intent for which it was adopted. ...'
>
> "Smith v. State, 364 So. 2d 1, 9 (Ala. Crim. App. 1978)."

C.Z. v. B.G., 278 So. 3d 1273, 1280-81 (Ala. Civ. App. 2018). In another context, this Court has said that "'[s]ubstantial compliance' may be defined as 'actual compliance in respect to substance essential to every reasonable objective,' of a decree giving effect to equitable principles." Pittman v. Pittman, 419 So. 2d 1376, 1379 (Ala. 1982) (quoting Application of Santore, 28 Wash. App. 319, 327, 623 P.2d 702, 707 (1981)). An examination of the text of the tax-sale statutes makes their objectives clear.

The tax-sale statutes include detailed instructions on the manner in which a tax sale must be held:

> "Such sales [of land for taxes] shall be made in front of the door of the courthouse of the county at public outcry, to the highest bidder for cash, between the hours of 10:00 A.M. and 4:00 P.M., and shall continue from day to day until all the real estate embraced in the decree has been sold."

§ 40-10-15. Jefferson County ignored one of those requirements -- the location of the tax sale -- with no apparent excuse. Despite that, Equivest argues "that the holding of the tax sale indoors rather than outdoors [in front of] the courthouse substantially complies with the requirements of Section 40-10-15." Equivest's brief at 15. This is essentially an argument that the statute's sale-location requirement is a minor technicality that is not essential to the objectives of the tax-sale statutes. We disagree -- the sale-location requirement plays an important role, and a county may not disregard it for convenience.

The efficient collection of property taxes and the stability of local government revenues depend, in part, on the availability of the tax sale as an enforcement mechanism. For that reason, this Court has observed that "the purchasing of tax-sale property is, in itself, a laudable practice, <u>one to</u>

be encouraged, rather than discouraged." Ross v. Rosen-Rager, 67 So. 3d 29, 44 (Ala. 2010). But we also know that a tax sale can be the result of a personal tragedy. That is the case here. The Stiff family fell behind on their property taxes while Mark and Jim were personally caring for their ailing mother, and the tax sale took place shortly after her death. When Mark was put on the witness stand and asked why he thought the tax sale was void, he responded: "I just don't think it's fair. ... I just don't think it's right to take advantage of people when they are in their worst situation."

The tax-sale statutes attempt to balance the public necessity of tax collection with the moral imperative that the State treat people like Mark fairly. The tax-sale statutes also reflect the pragmatic consideration that tax sales can be a reliable method of tax collection only if the public views the practice as just. The most obvious way that the tax-sale statutes ensure that tax sales are fair is by providing multiple layers of protection to delinquent taxpayers. Among other protections, the tax-sale statutes require: specific forms of notice at several points, §§ 40-10-4, -5, and -12, Ala. Code 1975; a mechanism by which clouded title can be

restored following an erroneous sale, § 40-10-31, Ala. Code 1975; and the opportunity for redemption of land sold for unpaid taxes, § 40-10-120 et seq., Ala. Code 1975. The tax-sale statutes also protect the rights of tax-sale purchasers, giving them some security in the event a tax sale is eventually declared void. § 40-10-76, Ala. Code 1975. In addition, the tax-sale statutes protect the public interest through several provisions designed to promote transparency and good government. Among these are the prohibition on county officers having an interest in a tax sale, § 40-10-24, Ala. Code 1975, and the requirement that a tax sale be held in front of the courthouse in full view of the public, § 40-10-15.

The facts of this case show why a practice of holding a tax sale somewhere more private than in front of the door of the courthouse could create an appearance of unfairness and undermine public acceptance of tax sales as a just way to enforce the law. Equivest's witnesses at trial testified that Equivest is a subsidiary of a Michigan-based bank, that it purchases around 30 tax-sale properties each year in the Bessemer Division of Jefferson County alone, and that the tax

collector's office in Bessemer has a practice of maintaining a file of tax certificates for "major investors" like Equivest rather than physically issuing them. There is nothing inherently wrong with any of this. But holding a tax sale in full view of the public makes it clear that tax sales are made to further the public good, not just for the benefit of repeat players who know their way around the courthouse.

Mark does not claim that he was prejudiced by the county's failure to hold the tax sale at the location prescribed by § 40-10-15. But that is beside the point. Among the legislature's objectives in enacting the tax-sale statutes was to create a system that is fundamentally fair and perceived by the public as such, despite the unpleasantness that comes with the practice. Setting a fixed and public location for all such sales is essential to that objective -- the location requirement is thus more than an inconvenient technicality. Ignoring the sale-location requirement is injurious to the public, and a sale made with no attention to that requirement is not made in substantial compliance with § 40-10-15.

We recognize that today's decision may cast doubt on other tax sales made in Jefferson County and around the state. But the legislature anticipated that tax sales would occasionally be voided, and it provides a remedy for parties like Equivest. See § 40-10-76, as it read before the amendment effective January 1, 2020 ("If, in any action brought by the purchaser ... to recover the possession of lands sold for taxes, a recovery is defeated on the ground that such sale was invalid for any reason other than that the taxes were not due, the court shall ... ascertain the amount of taxes for which the lands were liable at the time of the sale ... and the amount of such taxes on the lands, if any, as the plaintiff ... has, since such sale, lawfully paid ..., the interest on both amounts to be computed at the rate of 12 percent per annum ...; and the court shall thereupon render judgment against the defendant in favor of the plaintiff for the amount ascertained and the costs of the action, which judgment shall constitute a lien on the lands sued for, and payment thereof may be enforced as in other cases."). We will not provide a different remedy by writing the sale-location requirement out of § 40-10-15 under the doctrine of

"substantial compliance." The proper remedy for tax-sale purchasers injured by a county's failure to follow the law is the remedy provided by the legislature.

Conclusion

The tax-sale statutes include a clear list of procedures designed to protect the rights of property owners and the public. The requirement that a tax sale be held in a uniform public location encourages fairness and transparency, and it supports the legitimacy of the tax-sale system as a whole. If the "in front of the door of the courthouse" requirement is no longer important to Alabamians, it is up to the legislature (not the courts) to remove it.

Jefferson County ignored a clear statutory requirement when it sold Mark and Jim's property to Equivest. The sale was not made in substantial compliance with § 40-10-15, and it is therefore void. We reverse the judgment and remand the cause for further proceedings, including consideration of Equivest's alternative claim for relief under § 40-10-76, Ala.

Code 1975, as that statute read before the amendment effective January 1, 2020.

REVERSED AND REMANDED.

Parker, C.J., and Bolin and Stewart, JJ., concur

Sellers, J., concurs in the result.

Shaw, Wise, Bryan, and Mendheim, JJ., dissent.

BRYAN, Justice (dissenting).

The main opinion concludes that the tax sale of property owned by Mark Stiff and Jim Stiff did not substantially comply with the requirements of § 40-10-15, Ala. Code 1975. But not even Mark Stiff makes that argument. Mark actually argues that "strict compliance" with the statute is required, that that requirement was not met here, and "that substantial compliance with the statute is not sufficient." Mark's brief at 13. Of course, "[i]t is not the function of this Court to create arguments for an appellant." Certain Underwriters at Lloyd's, London v. Southern Nat. Gas Co., 142 So. 3d 436, 464 (Ala. 2013). Regardless, considering this case using the framework presented by the main opinion and given the facts before us, I must conclude that there was substantial compliance with the statute.

Section 40-10-15 provides, in pertinent part, that a tax sale

> "shall be made in front of the door of the courthouse of the county at public outcry, to the highest bidder for cash, between the hours of 10:00 A.M. and 4:00 P.M., and shall continue from day to day until all the real estate embraced in the decree has been sold. The judge of probate must attend such sales and make a record thereof in a book to be kept by him in his office for that purpose ...."

As the main opinion notes, this Court has sometimes stated the need for "strict compliance" with the statutory requirements of the tax-sale process. See, e.g., Gunter v. Townsend, 202 Ala. 160, 167, 79 So. 644, 651 (1918) (stating that "strict compliance" is required). At other times, the Court has used language suggesting that substantial compliance may suffice, while at the same time using language suggesting the need for strict compliance. See, e.g., Laney v. Proctor, 236 Ala. 318, 319, 182 So. 37, 38 (1938) (stating the need "to show the necessary and substantial compliance with all statutory requirements," while also stating that "courts are enjoined to give a strict construction to such proceedings"); and Drennen v. White, 191 Ala. 274, 277, 68 So. 41, 42 (1915) ("'In the sale of land for taxes, great strictness is required. To divest an individual of his property against his consent, every substantial requirement of the law must be complied with.'" (quoting Dane v. Glennon, 72 Ala. 160, 163 (1882))). Assuming, without deciding (as the main opinion also does), that substantial compliance with the statute is the standard, that standard was met here.

> "'Substantial compliance' may be defined as 'actual compliance in respect to substance essential to

> every reasonable objective,' of a decree giving effect to equitable principles -- equity -- in the true meaning of that word. Application of Santore, 28 Wash. App. 319, 623 P.2d 702 (1981). Substantial compliance means compliance which substantially, essentially, in the main, for the most part, satisfies the means of accomplishing the objectives sought to be effected by the decree and at the same time does complete equity. ... What constitutes substantial compliance is a matter dependent upon the particular facts of each case ...."

Pittman v. Pittman, 419 So. 2d 1376, 1379 (Ala. 1982).

The statutory requirements to obtain a valid tax deed are extensive. The basic steps of the process are:

> "(1) a valid assessment of the land; (2) a report from the tax collector to the probate court stating the inability to collect the assessed taxes; (3) notice to the taxpayer of delinquent taxes; (4) decree of sale from the county's probate judge; (5) execution of the decree of sale; and (6) the issuance of a tax deed."

Gary E. Sullivan, Alabama Tax Certificate Investors Beware: Negotiating Through the Labyrinth of, and Important Limitations to Recovering Money in, the Redemption Process, 73 Ala. Law. 416, 418 (Nov. 2012) (footnotes omitted). In this entire lengthy process, evidently the only irregularity here is the fact that the tax sale was held inside the courthouse, in the courtroom of the probate court, instead of in front of the door of the courthouse, as required by § 40-10-15. As the

main opinion correctly states, requiring tax sales to be held in a fixed and public place serves the objectives of promoting transparency, fairness, and public perception that the process is fair. However, I cannot conclude that those objectives were not met in this case by having the tax sale in the courtroom of the probate court. There is no indication in the record that the courtroom was not open to the public or that it was not a sufficiently public place to hold the sale. Of course, "courtrooms are generally open to the public." Allen v. Commonwealth, 286 S.W.3d 221, 230 (Ky. 2009). The record does not indicate that there was insufficient public notice that the sale was to be held in the courtroom. Of course, "[t]he burden is on the appellant to present a record containing sufficient evidence to warrant a reversal," Seidler v. Phillips, 496 So. 2d 714, 716 (Ala. 1986), and "[i]t is the duty of ... the appellant[] to demonstrate an error on the part of the trial court." G.E.A. v. D.B.A., 920 So. 2d 1110, 1114 (Ala. Civ. App. 2005). The mere fact that the sale was held inside the courthouse instead of in front of the door of the courthouse is simply not significant enough to establish a lack of substantial compliance with § 40-10-15.

That is, there is no indication that the essential objectives of the statute were not accomplished here.[1]

Mark acknowledges that he has not found a decision that "directly addresses the specific facts of this case." Mark's brief at 13. Among the decisions of this Court that Mark cites, none of them has set aside a tax sale because of a defect like the one here. Rather, Mark cites decisions of this Court that have set aside a tax sale for errors that are plainly substantial. Among those errors are failure to give notice to the property's owner, State ex rel. Gallion v. Graham, 273 Ala. 634, 143 So. 2d 810 (1962), and Almon v. Champion Int'l Corp., 349 So. 2d 15 (Ala. 1977); the absence of the tax collector's report to the probate court stating the inability to collect the assessed taxes, Landrum v. Davidson, 252 Ala. 125, 39 So. 2d 662 (1949); both the absence of

[1]Certainly, there is a risk in reading the sale-location requirement in the statute too literally. What if the tax sale were held under a large oak tree on courthouse grounds near the courthouse door but not actually "in front of the door"? I do not see how holding such a sale would undermine the objectives of the statute. See, e.g., Trumbull v. Jefferson Cty., 62 Wash. 503, 504, 114 P. 186, 187 (1911) (declining to set aside a tax sale that was required to be held "at the front door of the courthouse" when the sale was made from a stair landing 25 or 30 feet inside the courthouse door).

proper notice and the tax collector's report, Messer v. Birmingham, 243 Ala. 520, 10 So. 2d 760 (1942); and the holding of a tax sale after the taxes had actually been paid, Laney, supra. Like Mark, I have found no case in which this Court has voided a tax sale solely for the type of irregularity found in this case. In taking that step today, this Court breaks new ground.

Because I conclude that the tax sale was substantially compliant with the statutory requirements, I would affirm the trial court's judgment determining that the tax sale was valid. Alternatively, assuming that there was not substantial compliance with the statute, I disagree with the main opinion's conclusion that the tax sale is void; I would conclude that the noncompliance here would render the tax sale voidable rather than void. It is true that this Court has held in several cases that a tax sale is void if the statutory requirements are not met. However, as discussed above, those cases demonstrate significant noncompliance, such as failure to give required notice to the property's owner, e.g., Gallion, Almon, and Messer, supra. The noncompliance here (assuming there was "noncompliance") does not rise to that

level; thus, I would conclude that the tax sale here is only voidable.

On this issue, I draw an analogy to cases involving the foreclosure process in Alabama. Our Court of Civil Appeals has explained the distinction between void and voidable acts in that context:

> "In a direct attack on a foreclosure -- that is, an action seeking declaratory and injunctive relief to halt the foreclosure sale before it occurs, see, e.g., Ferguson v. Commercial Bank, 578 So. 2d 1234 (Ala. 1991); Bank of Red Bay v. King, 482 So. 2d 274 (Ala. 1985); and Woods v. SunTrust Bank, 81 So. 3d 357 (Ala. Civ. App. 2011), or an action to set aside the sale after it has occurred, see, e.g., Beal Bank, SSB v. Schilleci, 896 So. 2d 395 (Ala. 2004); Kelly v. Carmichael, 217 Ala. 534, 536, 117 So. 67, 69 (1928); and Browning v. Palmer, 4 So. 3d 524 (Ala. Civ. App. 2008) -- any circumstance in the foreclosure process that would render the foreclosure sale void or voidable may be asserted. In a proceeding involving a collateral attack on a foreclosure, however, only those circumstances that would render the foreclosure sale void may be raised as an affirmative defense.
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> "'[T]he true distinction between void and voidable acts, orders, and judgments, is, that the former can always be assailed in any proceeding, and the latter, only in a direct proceeding.' Alexander v. Nelson, 42 Ala. 462, 469 (1868). See, e.g., Carlton v. Owens, 443 So. 2d 1227, 1231 (Ala. 1983) (stating that '[t]he only remedy available to a defendant subject to a voidable judgment is a direct appeal from that judgment; a collateral attack is not allowed'); City of Dothan v. Dale Cnty. Comm'n, 295 Ala. 131, 324 So. 2d 772 (1975) (holding that,

because city's annexation of county land was, at most, voidable, opponents could not attack the annexation in a collateral proceeding); 23 Am. Jur. 2d Deeds § 162 (2002) (stating that '[a] voidable deed must be attacked, if at all, directly, but a deed that is void may be collaterally attacked by anyone whose interest is adversely affected by it' (footnote omitted)).

"One commentator has identified three types of flaws in the foreclosure process: those that will render the foreclosure sale void; those that will render the sale merely voidable; and those that are insignificant.

> "'[W]hen the power [of sale in a mortgage] is exercised in violation of the laws or of the security instrument terms, questions arise as to whether compliance with the laws or instrument provisions is a prerequisite for the exercise of the power so that the purported sale is utterly void, or whether the violation is merely sufficiently egregious as to produce a voidable sale, or whether it is so insignificant as to have no impact on the sale.'
>
> _____
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> "'Courts frequently speak of flaws in [nonjudicial-foreclosure] sales so serious that they produce a void sale. ... What the courts mean in denominating a sale as void is that adversely affected parties may have a sale set aside even though the property passed into the hands of a bona fide purchaser. In this sense of the term, there are very few void sales. Most of the cases in which a sale to a bona fide purchaser was set aside involved sales by

> trustees or mortgagees who lacked the power to sell.'

"12 Thompson on Real Property §§ 101.04(c)(2) and 101.04(c)(2)(i) at 401-02 (Thomas ed. 1994) (footnotes omitted).

> "'Where a defect is not so egregious as to make the sale utterly void but not so inconsequential as to be overlooked, the sale will be voidable; that is, it can be set aside at the request of an injured party so long as the legal title has not moved to a bona fide purchaser. This follows from the traditional common law rule that a subsequent bona fide purchaser of a legal title takes free of hidden equities. The right of an injured party to set aside a deed because of flaws that produce only a voidable title is an equitable right cut off by transfer to a bona fide purchaser.'

"Id., § 101.04(c)(2)(ii) at 403.

"In Alabama, the following circumstances may render a foreclosure sale void: (1) when the foreclosing entity does not have the legal right to exercise the power of sale, as, for example, when that entity is neither the assignee of the mortgage, Sturdivant v. BAC Home Loans Servicing, LP, 159 So. 3d 16 (Ala. Civ. App. 2011), [reversed on other grounds, Ex parte BAC Home Loans Servicing, LP, 159 So. 3d 31 (Ala. 2013)], nor the holder of the promissory note, Perry v. Federal Nat'l Mortg. Ass'n, 100 So. 3d 1090 (Ala. Civ. App. 2012), at the time it commences the foreclosure proceedings; (2) when 'the debt secured by the mortgage was fully paid prior to foreclosure,' Lee v. Gaines, 244 Ala. 664, 666, 15 So. 2d 330, 331 (1943); (3) when the foreclosing entity failed to give notice of the time and place of the foreclosure sale, Sanders v. Askew,

> 79 Ala. 433 (1885), but see Kelley Realty Co. v. McDavid, 211 Ala. 575, 577, 100 So. 872, 873-74 (1924) (stating that 'a distinction must be made between cases where there is no sort of compliance with the requirement of advertisement or other notice of the sale, and cases where there is actually given some notice of the nature required, sufficient to give public information of the pendency and date of the sale, though it be ever so defective or incomplete,' and that '[i]n the latter class of cases the foreclosure sale will not be void, but voidable only to the election of the mortgagor, properly and seasonably asserted'); and (4) when the purchase price paid is '"so inadequate as to shock the conscience, it may itself raise a presumption of fraud, trickery, unfairness, or culpable mismanagement, and therefore be sufficient ground for setting the sale aside,"' Hayden v. Smith, 216 Ala. 428, 430, 113 So. 293, 295 (1927)."

Campbell v. Bank of America, N.A., 141 So. 3d 492, 494-96 (Ala. Civ. App. 2012).

Drawing the analogy, I conclude that the defect here was, at worst, "'not so egregious as to make the sale utterly void.'" Id. at 495 (quoting 12 Thompson on Real Property § 101.04(c)(2)(ii) at 403). In this case, the only statutory defect was holding the sale in the courtroom instead of in front of the door of the courthouse. That defect is nowhere close to being as egregious as the substantial errors cited directly above in Campbell that would render a foreclosure sale void. And, as discussed earlier, the defect here does

not rise to the level of the substantial errors in cases in which this Court has declared a tax sale void. Those substantial, more fundamental errors include failure to give notice to the property's owner (Gallion and Almon, supra), the absence of the tax collector's report to the probate court stating the inability to collect the assessed taxes (Landrum, supra), both the absence of proper notice and the tax collector's report (Messer, supra), and conducting a tax sale after the taxes had actually been paid (Laney, supra). In this case, the tax sale was merely held in a courtroom inside the courthouse instead of in front of the door of the courthouse. Further, as the main opinion notes, Mark does not claim that he was prejudiced by the location of the tax sale, and I can find no evidence in the record showing that he was prejudiced, further indicating that the error here was not egregious. That error is not the type of error that should result in the drastic remedy of rendering a tax sale void; at most, the tax sale is voidable.

By declaring the tax sale void based only on the fact that it was improperly held in a courtroom, the main opinion has subjected all other similarly situated tax sales to collateral attack, thus opening a legal Pandora's box. It is

unknown how many tax sales in this State have been conducted inside a courtroom. Evidently, the Bessemer Division in Jefferson County is in the habit of doing so, and, given the large population of that division, the number of tax sales that have been conducted in that manner is likely very high. My research of well populated counties indicates that at least one other such county -- Tuscaloosa -- holds its tax sales inside the courthouse. See https://www.tuscco.com/government/departments/tax-collector/land-tax-sale.[2] Declaring the tax sale here to be void based on a single non-egregious defect needlessly imperils the legal status of countless other tax sales. .

In sum, I would affirm the trial court's judgment upholding the tax sale because I conclude that there was substantial compliance with § 40-10-15. Alternatively, assuming that there was not substantial compliance, I would conclude that the single non-egregious defect in this case would render the tax sale voidable, not of void.

Shaw, Wise, and Mendheim, JJ., concur.

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[2]On the date this opinion was released, this information could be found at this Web site. A copy of the information is available in the case file of the clerk of the Alabama Supreme Court.