

Court of Appeals of South Carolina.
 CRUSADER SERVICING CORPORA-
 TION, Respondent/Appellant,

v.

The COUNTY OF LAURENS, South Car-
 olina, a Body Politic, and Southeastern
 Housing Foundation, Appellants/Re-
 spondents.

No. 4464.

Heard Oct. 22, 2008.

Decided Dec. 4, 2008.

Withdrawn, Substituted and Refiled Feb.
 26, 2009.

Background: County and taxpayer ap-
 pealed finding of the Circuit Court,
 Laurens County, Ellis B. Drew, Special
 Referee, that they were jointly and sever-
 ally liable to tax sale purchaser for bid in-
 terest related to delinquent tax sale, follow-
 ing taxpayer's redemption of property. Pur-
 chaser cross-appealed, alleging error in
 denial of its request for statutory prejudg-
 ment interest.

Holdings: The Court of Appeals, [Kondur-
 os, J.](#), held that:

(1) tax sale was valid even if tax notice for
 one of the two tax years at issue was retro-
 actively voided on basis of award of tax
 exempt status to taxpayer for one of the tax
 years;

(2) county was not jointly and severally li-
 able with taxpayer for paying bid interest
 to purchaser;

(3) taxpayer was not required to pay stat-
 utory prejudgment interest on bid interest
 due to purchaser; and

(4) purchaser was not entitled to statutory
 prejudgment interest on its bid amount for
 period of time in which county held the
 purchaser's bid money while awaiting re-

turn of the tax sale receipt.

Affirmed in part and reversed in part.

West Headnotes

[1] Taxation 371  **2900**

371 Taxation

371III Property Taxes

371III(L) Sale of Land for Nonpay-
 ment of Tax

371k2900 k. In general. **Most
 Cited Cases**

The sale of the property of a defaulting
 taxpayer is governed by statute.

[2] Statutes 361  **176**

361 Statutes

361VI Construction and Operation

361VI(A) General Rules of Con-
 struction

361k176 k. Judicial authority and
 duty. **Most Cited Cases**

Statutory interpretation is a question of
 law.

[3] Appeal and Error 30  **841**

30 Appeal and Error

30XVI Review

30XVI(A) Scope, Standards, and Ex-
 tent, in General

30k838 Questions Considered
 30k841 k. Review where facts
 are not disputed. **Most Cited Cases**

Appeal and Error 30  **842(2)**

30 Appeal and Error

30XVI Review

30XVI(A) Scope, Standards, and Ex-
 tent, in General

30k838 Questions Considered

[30k842](#) Review Dependent on Whether Questions Are of Law or of Fact
[30k842\(2\)](#) k. Findings of fact and conclusions of law. [Most Cited Cases](#)

Appeal and Error 30 **845(2)**

30 Appeal and Error

[30XVI](#) Review

[30XVI\(A\)](#) Scope, Standards, and Extent, in General

[30k844](#) Review Dependent on Mode of Trial in Lower Court

[30k845](#) In General

[30k845\(2\)](#) k. Cases submitted below on agreed case or statement. [Most Cited Cases](#)

When an appeal involves stipulated or undisputed facts, an appellate court is free to review whether the trial court properly applied the law to those facts; in such cases, the appellate court is not required to defer to the trial court's legal conclusions.

[4] Statutes 361 **190**

361 Statutes

[361VI](#) Construction and Operation

[361VI\(A\)](#) General Rules of Construction

[361k187](#) Meaning of Language

[361k190](#) k. Existence of ambiguity. [Most Cited Cases](#)

If a statute's language is plain, unambiguous, and conveys a clear meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning.

[5] Taxation 371 **2991**

371 Taxation

[371III](#) Property Taxes

[371III\(L\)](#) Sale of Land for Nonpayment of Tax

[371k2989](#) Setting Aside Sale or Certificate

[371k2991](#) k. Grounds, conditions precedent, and time for proceedings. [Most Cited Cases](#)

County lacked authority to void tax sale of property on basis that taxpayer was awarded tax exempt status for one of two tax years at issue after sale took place, under statute that permitted official in charge of tax sale to void sale if he discovers before tax title has passed that there is a failure of any action required to be properly performed, as statute did not provide that official in charge of conducting sale could void it because taxes were wrongfully assessed and property was tax exempt, but only addressed situations in which sale was not properly conducted. [Code 1976, § 12-51-150](#).

[6] Taxation 371 **3031**

371 Taxation

[371III](#) Property Taxes

[371III\(M\)](#) Redemption from Tax Sale

[371k3029](#) Amount Required to Redeem

[371k3031](#) k. Interest and penalties. [Most Cited Cases](#)

Tax sale of property for failure to pay ad valorem property taxes for two tax years was valid even if tax notice for one of the tax years was retroactively voided on basis of award of tax exempt status to taxpayer for one of the tax years, such that taxpayer's redemption of property was valid, which triggered tax sale purchaser's statutory entitlement to 12 percent bid interest; taxpayer failed to pay undisputedly due back taxes for other tax year at issue until after tax sale, and this failure validated the tax sale. [Code 1976, §§ 12-51-90, 12-51-100, 12-4-730](#).

[7] Taxation 371 ↪3031

371 Taxation

371III Property Taxes

371III(M) Redemption from Tax Sale

371k3029 Amount Required to Redeem

371k3031 k. Interest and penalties. [Most Cited Cases](#)

Taxation 371 ↪3195

371 Taxation

371III Property Taxes

371III(N) Tax Titles

371III(N)4 Rights and Remedies of Purchaser of Invalid Title

371k3193 Refunding or Recovery of Purchase Money from State, County, or Other Municipality

371k3195 k. Grounds and extent of liability. [Most Cited Cases](#)

County was not jointly and severally liable with taxpayer for paying bid interest to tax sale purchaser, following taxpayer's redemption of property; statute required county to remit paid money to purchaser as part of the redemption process, and county was not responsible for inequity that resulted to parties, in that it was taxpayer who neglected to pay its taxes for one year, and was not as diligent as it should have been in ascertaining status of its tax exemption for other tax year, and had taxpayer paid taxes due and then sought a refund, property would not have been sold at tax sale. [Code 1976, §§ 12-51-90, 12-51-100.](#)

[8] Interest 219 ↪39(2.15)

219 Interest

219III Time and Computation

219k39 Time from Which Interest Runs in General

219k39(2.5) Prejudgment Interest

in General

219k39(2.15) k. Liquidated or unliquidated claims in general. [Most Cited Cases](#)

Prejudgment interest is allowed if the sum is certain or capable of being reduced to certainty based on a mathematical calculation previously agreed to by the parties.

[9] Interest 219 ↪39(2.20)

219 Interest

219III Time and Computation

219k39 Time from Which Interest Runs in General

219k39(2.5) Prejudgment Interest in General

219k39(2.20) k. Particular cases and issues. [Most Cited Cases](#)

Taxpayer was not required to pay statutory prejudgment interest on bid interest due to tax sale purchaser after taxpayer redeemed property, as sum due to purchaser was the bid interest under redemption statute; although bid interest ultimately would be paid to purchaser, redemption statute required money first pass from taxpayer through county, and according to county, the bid interest was no longer due and owing. [Code 1976, §§ 12-51-90, 34-31-20\(A\).](#)

[10] Interest 219 ↪39(2.20)

219 Interest

219III Time and Computation

219k39 Time from Which Interest Runs in General

219k39(2.5) Prejudgment Interest in General

219k39(2.20) k. Particular cases and issues. [Most Cited Cases](#)

Tax sale purchaser of real property that was later redeemed by the delinquent taxpayer was not entitled to statutory prejudgment interest on its bid amount for the period of time in which the county held the

purchaser's bid money while awaiting return of the tax sale receipt from the purchaser; purchaser was required to return the tax sale receipt as a condition precedent to return of the bid. Code 1976, §§ 12-51-100, 34-31-20(A).

****496 Robert Hill**, of Newberry and **Benjamin Goldberg**, of Charleston, for Respondent/Appellant.

William Douglas Gray, of Anderson, for Appellant/Respondent, Laurens County.

Richard B. Ness, of Bamberg, for Appellant/Respondent, Southeastern Housing Foundation.

KONDUROS, J.:

***28** Laurens County (the County) and Southeastern Housing Foundation (Southeastern) appeal the special referee's finding they were jointly and severally liable to Crusader Servicing Corporation (Crusader) for bid interest related to a delinquent tax sale. Crusader cross-appeals alleging the special referee erred in denying its request for statutory prejudgment interest. We affirm in part and reverse in part.

FACTS

Southeastern failed to pay *ad valorem* property taxes for 2001 and 2002 for its ****497** property located in Laurens County and known as the Westside Manor Apartments. In 2003, the County proceeded with a tax sale of the property. Crusader bid \$348,000 ^{FN1} for the property and deposited the bid money with the County. Southeastern claimed it was tax exempt and filed for such status with the Department of Revenue (the Department) subsequent to the sale of the property. ^{FN2} Two ***29** days prior to the expiration of the redemption

period, Southeastern paid the taxes due to Laurens County plus twelve percent interest to be given to Crusader as the bidder pursuant to [section 12-51-90\(B\) of the South Carolina Code](#) (Supp.2007). Four days later, the Department awarded Southeastern tax exempt status for the year 2002. Laurens County returned \$67,569.00 to Southeastern, which specifically included the twelve percent interest on Crusader's bid.

FN1. This was a clear overbid for the property.

FN2. The record is unclear whether Southeastern may have at some point been declared tax exempt for the year 2001, but it is undisputed that Southeastern was assessed the taxes, failed to pay them in a timely manner, and was ultimately found liable for the *ad valorem* taxes for 2001.

The County sent a letter to Crusader indicating the tax sale was void and requesting return of the tax sale receipt to the property in exchange for a refund of the bid amount. Crusader refused to return the tax sale receipt at that time, arguing it was entitled to the twelve percent interest under the redemption statute. The parties eventually entered a consent order in August of 2005 pursuant to which Crusader returned the tax sale receipt, and the County returned the bid money to Crusader.

Litigation ensued, and the special referee concluded Southeastern and Laurens County were jointly and severally liable for the twelve percent bid interest. The court reasoned the redemption statute provided for the payment of the interest. The court found the County was without authority under [section 12-51-100 of the South Caro-](#)

lina Code (2000) to void a tax sale unless they made a procedural error in the conduct of the sale. The County and Southeastern appeal.

STANDARD OF REVIEW

[1][2][3][4] “The sale of the property of a defaulting taxpayer is governed by statute.” *Key Corporate Capital Inc., v. County of Beaufort*, 373 S.C. 55, 59, 644 S.E.2d 675, 677 (2007). Statutory interpretation is a question of law. *State v. Sweat*, 379 S.C. 367, 373, 665 S.E.2d 645, 648 (Ct.App.2008). “When an appeal involves stipulated or undisputed facts, an appellate court is free to review whether the trial court properly applied the law to those facts. In such cases, the appellate court is not required to defer to the trial court’s legal conclusions.” *Id.*, 665 S.E.2d at 649. “If a statute’s language is plain, *30 unambiguous, and conveys a clear meaning, ‘the rules of statutory interpretation are not needed and the court has no right to impose another meaning.’” *Buist v. Huggins*, 367 S.C. 268, 276, 625 S.E.2d 636, 640 (2006) (quoting *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000)).

LAW/ANALYSIS

I. Bid Interest Under Sections 12-51-90, 12-51-100, and 12-51-150 of the South Carolina Code

[5] Southeastern contends the special referee erred in finding it liable to Crusader for bid interest pursuant to section 12-51-90 of the South Carolina Code (Supp.2007) because the tax sale was voided once Southeastern was declared tax exempt for 2002. We disagree.

Under section 12-51-90(A), the defaulting taxpayer may redeem the affected property within the redemption period by paying delinquent taxes, assessments, penalties, and costs, together with interest as

provided in subsection (B). Subsection (B) requires the delinquent taxpayer to remit interest on the tax sale bid amount in accordance with the schedule set forth. For property redeemed in the final three months of the redemption period, the interest rate is twelve percent. Section 12-51-100 of the South Carolina Code (2000) dictates what happens when the redemption is instituted: “The successful purchaser, at the delinquent tax sale, shall promptly be notified by mail to return the **498 tax sale receipt to the person officially charged with the collection of delinquent taxes in order to be expeditiously refunded the purchase price *plus the interest provided in Section 12-51-90.*” (emphasis added).

Section 12-51-150 of the South Carolina Code (Supp.2007) governs the procedure for voiding a tax sale:

If the official in charge of the tax sale discovers before a tax title has passed that there is a failure of any action required to be properly performed, the official may void the tax sale and refund the amount paid, plus interest in the amount actually earned by the county on the amount refunded, to the successful bidder. If the full amount of the taxes, assessments, penalties, and costs have not been paid, the property must be brought to tax sale as soon as possible.

*31 The statutory framework for tax sales does not seem to contemplate the precise situation presented in this case. The interest provision of section 12-51-90(B) is intended to encourage the prompt payment of delinquent taxes and to penalize the delinquent taxpayer for delay. Furthermore, the interest provision is an incentive for purchasers to bid on tax sale property even though there is risk involved that the prop-

erty could be redeemed or the sale voided altogether.^{FN3}

FN3. We recognize section 12-51-150 provides the bidder is entitled to the interest actually accrued on the bid amount in the event the sale is voided.

Once the redemption was accomplished by Southeastern under section 12-51-90, the terms of section 12-51-100 were triggered, and Crusader was entitled to the twelve percent interest on its bid. Section 12-51-150 does not provide that the official in charge of conducting the sale can void the sale because taxes were wrongfully assessed and the property was tax exempt. It only addresses situations in which the sale was not properly conducted. We decline to read more into the statute than can be discerned from its plain language. See *Buist v. Huggins*, 367 S.C. 268, 276, 625 S.E.2d 636, 640 (2006) (finding the court cannot impose another meaning on plain statutory language). Therefore, we cannot conclude the sale was void pursuant to section 12-51-150.

[6] However, as Southeastern points out, section 12-4-730 of the South Carolina Code (2000) permits the county auditor to “void any tax notice applicable to the property” once notified by the department that a property is exempt from *ad valorem* taxes. We do not find it necessary to determine whether the auditor could retroactively void the tax notice thereby nullifying the sale. The record shows Southeastern did not pay, nor did it attempt to pay, the 2001 back taxes until after the tax sale. It is undisputed Southeastern was ultimately responsible for paying those taxes. The county was within its rights to proceed with a sale of the subject property based on the outstanding taxes owed for 2001. The

failure to pay the undisputedly due taxes validates the sale even if the tax notice for the 2002 taxes was retroactively voided. Consequently, the sale was valid, the redemption was valid, and the subsequent determination of tax exempt status for 2002 did *32 not affect the sale. The tax exempt determination entitled Southeastern to the refund of taxes assessed for 2002, but did not render the requirements under sections 12-51-90 and 12-51-100 ineffective. Therefore, we find the special referee correctly concluded Southeastern was required to pay the bid interest to the County of Laurens to be remitted to Crusader.

[7] The County argues it should not be responsible for payment of the bid interest to Crusader. We agree. Under the statute, the person officially charge with the collection of delinquent taxes should “expeditiously refund the purchase price plus the interest provided in Section 12-51-90.” § 12-51-100. Under section 12-51-90, it is the defaulting taxpayer, in this case Southeastern, who is responsible for *paying* the bid interest. The County, under the statute, is responsible for remitting the paid money to the bidder as part of the redemption process.

Our analysis with respect to the County's liability must be performed in light of another case from this court, **499 *H & K Specialists v. Brannen*, 340 S.C. 585, 532 S.E.2d 617 (2000). In *H & K Specialists*, the Beaufort County treasurer provided improper notice regarding the tax sale of the property. *Id.* at 586, 532 S.E.2d at 618. After the title to the property had passed to the successful bidder, H & K, the treasurer set aside the sale and refunded the purchase price less the tax delinquency to the defaulting taxpayers, the Brannens. *Id.* H & K then sued Beaufort County for the

return of its purchase price plus statutory interest as provided under the redemption statute. *Id.* In finding the County liable for the funds, the court stated:

Finally, we are mindful of the fact that the master based his decision, in part, on the fact that the Brannens received both the property and the money and thus H & K's sole remedy was against the Brannens. However, it was the Beaufort County Respondents which created this inequitable situation by failing to provide the Brannens with the proper notice that resulted in the tax sale being set aside and erred in refunding the purchase price, less the tax delinquency, to the Brannens rather than to H & K. Therefore,*33 we do not believe H & K is limited to pursuing a legal remedy solely against the Brannens.

Id. at 589, 532 S.E.2d at 619-20.

In this case, the County does not appear to be responsible for the inequity that has resulted to the parties. Southeastern neglected to pay its 2001 taxes and was not as diligent as it should have been in ascertaining the status of its tax exemption for 2002. Had Southeastern paid the taxes due and then sought a refund, the property would not have been sold, thereby avoiding the present scenario.

The County was faced with a legitimate conundrum in light of the Department's notice of tax exemption being issued almost simultaneously with the redemption. The County consulted its legal counsel, and based on that advice proceeded to refund the 2002 taxes and the bid interest paid to Southeastern believing the sale to be legally void at that time. The County then attempted to return the purchase price to Crusader as mandated and was willing to

return the interest actually earned.

We do not find statutory authority for requiring the County to pay the bid interest to Crusader, and we find the present facts distinguishable from those present in *H & K Specialists* so that the County should not be found jointly and severally liable with Southeastern for the bid interest. Therefore, we conclude the bid interest was properly due to Crusader under section 12-51-100, but only Southeastern, the defaulting taxpayer thereunder, is liable for payment.

II. Statutory Prejudgment Interest on the Bid Interest

Crusader contends the special referee erred in denying its request for statutory prejudgment interest on the bid interest it was due under the redemption statute. We disagree.

[8] Section 34-31-20(A) of the South Carolina Code (Supp.2007) provides “[i]n all cases of accounts stated and in all cases wherein any sum or sums of money shall be ascertained and, *being due*, shall draw interest according to law, the legal interest shall be at the rate of eight and three-fourths percent per annum.” (emphasis added). Prejudgment interest is allowed if the sum is certain or capable of being reduced to *34 certainty based on a mathematical calculation previously agreed to by the parties. *Butler Contracting, Inc. v. Court St., LLC*, 369 S.C. 121, 133, 631 S.E.2d 252, 258-59 (2006).

[9] In the instant case, the sum due to Crusader was the bid interest under the redemption statute. Although the bid interest ultimately would be paid to Crusader, the statute required the money first pass from Southeastern through the County. According to the County, *the bid interest was no longer due and owing*. Consequently, the

sum was removed from the purview of [section 34-31-20\(A\)](#), and Crusader is not entitled to statutory prejudgment interest.

III. Statutory Interest on the Bid

[10] The County contends the special referee erred in awarding Crusader \$25,375 in ****500** interest on Crusader's \$348,000 bid. We agree.

The special referee awarded statutory prejudgment interest pursuant to [section 34-31-20\(A\)](#) for the period of time in which the County held Crusader's bid money while awaiting return of the tax sale receipt. According to [section 12-51-100](#), “[t]he successful purchaser, at the delinquent tax sale, shall promptly be notified by mail to return the tax sale receipt to the person officially charged with the collection of delinquent taxes *in order to be expeditiously refunded the purchase price plus the interest provided in section 12-51-90.*” (emphasis added). Thus, as a condition precedent to return of the bid, the bidder is required to return the tax sale receipt. Therefore, we find the County is not liable for prejudgment interest on Crusader's bid for the time in which Crusader retained the tax sale receipt after notification by the County.

CONCLUSION

We find Southeastern liable for the bid interest due to Crusader pursuant to [section 12-51-100](#), but Southeastern is not responsible for statutory prejudgment interest. We conclude this case is distinguishable from *H & K Specialists* so that the County is not responsible for payment of the bid interest or statutory prejudgment interest. We further find the County is not liable for prejudgment interest on Crusader's ***35** bid for the time in which Crusader retained the tax sale receipt. Therefore, the order of the circuit court is

AFFIRMED IN PART and REVERSED IN PART.

ANDERSON and **WILLIAMS**, JJ., concur.

S.C.App.,2009.

Crusader Servicing Corp. v. County of Laurens
382 S.C. 25, 674 S.E.2d 495

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