

at the hearing to uphold the validity of the tax sales, which made the plaintiff's claim to costs much stronger than in the present instance.

On the other hand, in *Christie v. Johnston*, 12 Gr. 534, on a tax sale being declared void, the defendant was ordered to pay costs, on the ground that at the sale he stated that he purchased for the benefit of the real owner and afterwards set up title under the tax sale against him. In *Knaggs v. Ledyard*, 12 Gr. 320, a tax sale was set aside and the plaintiffs were given costs against the defendant, because before suit the plaintiffs had in vain endeavored to get the defendant to settle without suit; and a similar decree was made with costs in *Irwin v. Harrington*, because the plaintiff, before suit, had offered to repay to the defendant the taxes paid by him, for a release of any claim, and the defendant had refused to abandon. It is true that in *Mills v. McKay* 15 Gr. 192, Mowat, V. C., expressed the opinion that in such cases costs should, as a general rule, follow the event, as in other cases; but he based this opinion upon *Knaggs v. Ledyard*. From *Bamberger v. McKay*, 15 Gr. 328, it would appear that there ought to be a demand on the party claiming under the tax title for a release and a refusal, to entitle the owner to file a bill in equity to have the sale declared void; but this is hardly in consonance with the received principles in this court as to the right to file a bill for the removal of the cloud occasioned by the registration of an instrument appearing to show a claim adverse to the real owner.

I think that, when a party finds municipal officers putting up lands for sale for taxes, he is justified in assuming that they are proceeding properly, especially if he has no notice of any claim to the contrary by the owner, and that he should not be compelled to inquire into the regularity of the proceedings before accepting and registering his deed; and it is only reasonable that before the true owner brings a suit to have the sale declared void, he should give the purchaser an opportunity of investigating the matter and electing to abandon any claim without suit.

In the present case there is no allegation of the defendant being a party to any irregularity or impropriety in connection with the sale.

The decree will go declaring the sale and the deed void as against the plaintiff, without costs.

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