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Louis Spomer, Recorder

STATE OF COLORADO)

) SS.

COUNTY OF WELD)

IN THE DISTRICT COURT

No. 9542

Filed in District Court,

Weld Co., Colo.

AUG 14 1939

A. J. Luther, Clerk.

DENVER JOINT STOCK LAND BANK OF DENVER,)
a corporation, in its own behalf and in)
behalf of all others similarly situated,)
and L.R. NOEL,)

Plaintiffs,)

vs.)

THE BIG BEND DRAINAGE DISTRICT, Et Al.,)

Defendants.)

RULING OF THE COURT.

This cause having been regularly tried to the court, without a jury, on the 16th day of May A.D.1939, upon the issues raised by plaintiffs' complaint, the answers of the defendants, the replies of the plaintiffs, and upon the cross-complaint of the defendant H. B. Swedlund, against the defendant Harvey E. Witwer as County Treasurer, and the Court not then being sufficiently advised in the premises as to the matters of law presented at said time in the argument of counsel, and having requested counsel to file briefs herein, and taken the matter under advisement for further consideration, and the Court having since said date carefully read and considered the briefs of counsel and the evidence and testimony given in this cause, and being now sufficiently advised in the premises

DOTH FIND generally for the plaintiffs and in favor of the plaintiffs and against the defendants H.B. Swedlund and The Big Bend Drainage District, and on the issues joined

on the cross-complaint, the Court doth find generally for the defendant Harvey E. Witwer, as County Treasurer, and against the defendant H. B. Swedlund.

The Court doth further find that the outstanding warrants of the defendant The Big Bend Drainage District, are void and do not constitute any indebtedness of the said Big Bend Drainage District, and the Court doth specially find that the 1936 levy made for the year 1937 by the Board of Directors of the Defendant The Big Bend Drainage District, is cumulative, excessive and void and the Court doth specially find that tax sales Certificates Numbers 1305, 1306, 1307, 1308, 1309 and 1310 for the tax sale of December 15th, 1937 for Big Bend Drainage District taxes for the year 1937, made pursuant to the levy of the year 1936, are void.

WHEREFORE the Court doth ORDER, RULE AND ADJUDGE that all outstanding warrants of the defendant The Big Bend Drainage District are null and void and do not constitute any indebtedness of said Big Bend Drainage District, and specially that the said tax sales certificates Numbers 1305, 1306, 1307, 1308, 1309 and 1310 are hereby declared cancelled, and the defendant The Big Bend Drainage District, through its Board of Directors, is hereby ordered to surrender said tax sales certificates to the County Treasurer, Harvey E. Witwer, for cancellation, and the defendant Harvey E. Witwer as County Treasurer is hereby ordered and directed to cancel said certificates on the face thereof, and to record said cancelled tax certificates in the office of the County Clerk and Recorder of Weld County, Colorado.

IT IS FURTHER ORDERED AND ADJUDGED that the

plaintiffs do have and recover their costs in this behalf expended against the defendants The Big Bend Drainage District and H. B. Swedlund, and that the defendant Harvey E. Witwer do have and recover his costs in this behalf expended against the defendant H. B. Swedlund.

It further appearing to the Court that no good purpose can be subserved by requiring counsel to file and argue any motions for a new trial, the filing and arguing of a motion for a new trial herein, is hereby dispensed with.

To which rulings and judgments of the Court, the defendants The Big Bend Drainage District and H.B.Swedlund are allowed their exceptions, and a stay of execution on this judgment is granted for sixty days from this date.

DONE IN OPEN COURT at Greeley, Weld County, Colorado, this 14th day of August A.D.1939.

BY THE COURT:

Frederic W. Clark,
Judge.

CERTIFICATE OF COPY

STATE OF COLORADO) ss.
COUNTY OF WELD)

I, A. J. LUTHER, Clerk of the District Court, in
and for the aforesaid County and State, do hereby certify that the within and
foregoing is a full, true and correct copy of RULING OF THE COURT in Case
No. 9542, entitled DENVER JOINT STOCK LAND BANK OF DENVER, a corporation,
in its own behalf and in behalf of all others similarly situated, and
L.R. NOEL, Plaintiffs, vs. THE BIG BEND DRAINAGE DISTRICT, et al.,
Defendants, as the same appears from the original files and records
in this Court, in this Cause, in this Office, now remaining, from
which Ruling of the Court appeal to the Supreme Court of the State of
Colorado was taken and which appeal affirmed in toto the foregoing
Ruling of the Court and Remittitur showing such affirmation of said
Ruling of the Court was issued on the 5th day of November, 1941,
under the hand and seal of O.E. Rickerson, Clerk of the Supreme Court
of the State of Colorado, and under the seal of said Court, which
said Remittitur appears in the original files of this Court.

IN TESTIMONY WHEREOF, I have hereunto set my hand and
affixed my official seal, at my office in Greeley in said
County and State, this 1st day of December,
A. D. 19~~40~~ 41.

A. J. Luther
Clerk of District Court, Weld County, Colorado

By M. R. Greigg Deputy.