

NO. 49,712-CA

**DISSENT FROM THE DENIAL OF REHEARING
RENDERED ON JUNE 18, 2015**

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

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SAPPHIRE LAND COMPANY, L.L.C. Plaintiff-Appellant

Versus

CHESAPEAKE LOUISIANA, L.P., ET AL Defendant-Appellee

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Originally appealed from the
First Judicial District Court for the
Parish of Caddo, Louisiana
Trial Court No. 547511

Honorable Scott J. Crichton, Judge

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DAVID M. TOUCHSTONE Counsel for Appellant

MICHAEL B. DONALD Counsel for Appellee,
Chesapeake Louisiana, L.P.
and Chesapeake Operating,
Inc.

HENRY M. BERNSTEIN Counsel for Appellee,
DONNA Y. FRAZIER Parish of Caddo

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Before WILLIAMS, CARAWAY, MOORE,
LOLLEY, and PITMAN, JJ.

CARAWAY, J., would grant rehearing.

The opinion of this court misses the distinction between a tax “sale” and non-sale where the property is adjudicated to the political subdivision and therefore fails to address the express statutory provision for the redemption of such adjudicated property. La. R.S. 47:2246. The three-year redemption period in our law promotes a policy of allowing the third party purchaser of the property to move toward full ownership. That three-year rule for sales does not prevent redemption after three years when adjudication occurs. La. R.S. 47:2246; *Fiedler v. Pipes*, 236 La. 105, 107 So.2d 409 (La. 1958). The policy in adjudication settings appears to be merely the reimbursement to the political body for the delinquent taxes, interest, and penalties. Longstanding jurisprudence in Louisiana has referred to the public body’s relationship to the adjudicated tax property before redemption as merely an “inchoate” title. *Sitges v. St. Bernard Syndicate*, 169 La. 674, 125 So. 850 (La. 1929); *Whitten v. Monkhouse*, 29 So.2d 800 (La. App. 2d Cir. 1947).

In an adjudication situation, unless the political subdivision takes specific further action (e.g., see La. R.S. 47:2206 and La. R.S. 47:2231, *et seq.*) with additional notice protections to the tax debtor, the property can always be redeemed, as in the present case, many years after the adjudication to the political subdivision. La. R.S. 47:2246. I do not see argument in this appeal by the Parish of Caddo that it violated the tax adjudication laws when it issued its Certificate of Redemption in 2010. Caddo does not argue that the land (as distinguished from the mineral lease

in question) is not back in commerce with ownership and possession in the private parties with whom Sapphire transacted.

Accordingly, with the original ruling of this court having erroneously applied the three-year redemption rule for tax sales to an adjudication with its more lengthy redemption right sanctioned under La. R.S. 47:2246, the appellant's questions to this court remain unaddressed. First, what was the effect of Caddo's redemption certificate on the oil and gas lease? Second, assuming the lease remains viable after the certificate of redemption, is Sapphire entitled to the lease royalties for future production? I would grant rehearing to answer those questions.