

BORDEN v. INDUSTRIAL FINANCE COMPANY, INC.

4-8628

214 S. W. 2d 363

Opinion delivered November 1, 1948.

APPEAL AND ERROR.—An appellate court will adhere to a ruling in an earlier case which has become a rule of property, and appellants' tax title must be held invalid.

Appeal from Little River Chancery Court; *A. P. Steel*, Chancellor; affirmed.

*Johnson & Johnson*, for appellant.

*Byron Goodson* and *E. K. Edwards*, for appellee.

ED F. McFADDIN, Justice. The validity of appellants' tax title is the issue. With becoming candor counsel for appellants say: "There is but one vital issue presented by this appeal. At the outset we agree that if *Lumsden v. Erstine*, 205 Ark. 1004, 172 S. W. 2d 409, 147 A. L. R. 1132, is yet the law in this State, then this case must be affirmed."

It is true that *Lumsden v. Erstine* was decided by a divided Court, but the case has been subsequently cited with approval in opinions to which there were no recorded dissents. *Lumsden v. Erstine* has become a rule of property, and we continue to adhere to the holding of that case.

Affirmed.