

Pontchartrain Park Homes v. Commissioner
A Simple Case Complicated by Race

Richard Winchester

Abstract

Pontchartrain Park is a housing subdivision located in New Orleans. Unique in many respects, it was built for Blacks with financing that was underwritten by the Federal Housing Administration (FHA) at a time when the agency restricted its programs to whites and whites-only communities. During a pause in building homes, the developer sold a portion of the land to the state and claimed that the profit from the transaction should be taxed at the low rates that apply to the sale of a capital asset. Any real estate developer would face low odds of prevailing in court because they would have to show that they did not hold the land primarily for sale to customers in the ordinary course of its trade or business. From all appearances, this developer, in fact, acquired and held the land precisely for that purpose. Nevertheless, the developer prevailed in tax court, largely because the judge disregarded well settled legal rules and invoked racist assumptions that echoed the ones the FHA used to discriminate against Black homeowners. The case illustrates one of the many forms that anti-Black bias can take and the consequences it can have in legal disputes even when none of the parties is Black.