

UNREPORTED\*  
IN THE APPELLATE COURT  
OF MARYLAND

No. 340

September Term, 2023

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DAVID T. BRAUN

v.

EFFECT, INC., ET AL.

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Shaw,  
Tang,  
Sharer, J. Frederick  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Sharer, J.

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Filed: April 19, 2024

\*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

David T. Braun, appellant, filed this appeal from an order of the Circuit Court for Baltimore County which foreclosed the right of redemption in real property. For the following reasons, we shall affirm.

### **BACKGROUND**

On September 9, 2021, real property identified as 1911 Victory Drive (“the Property”) was sold at a Baltimore County tax sale to Effect, Inc. (“Effect”). On July 18, 2022, Effect filed an action to foreclose rights of redemption in the Property. The foreclosure action was filed against the Estate of Donald R. Braun,<sup>1</sup> and was served on appellant, as the personal representative of the estate.

On August 26, 2022, appellant, proceeding as a self-represented litigant, filed an answer. Appellant alleged that the tax sale was invalid because the State Department of Assessments and Taxation (“SDAT”) had issued a tax credit for the Property and, therefore, no taxes were due. On September 22, 2022, appellant filed an amended answer, in which he claimed that his application for a tax credit had been erroneously denied by SDAT. Appellant asserted a right to file a cross-claim against the State “to establish the [S]tate’s liability to Effect, Inc. for any and all property tax obligations” associated with the Property.<sup>2</sup>

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<sup>1</sup> Also named as defendants were Baltimore County, the State of Maryland, the testate and intestate successors of Donald R. Braun, and “[a]ll persons that have or claim to have any interest in” the Property.

<sup>2</sup> There is no indication in the record that a cross-claim was filed.

On October 21, 2022, the court issued an Order of Publication, which directed that notice of the foreclosure proceeding be published in a local newspaper, warning all interested persons that, unless the Property was redeemed by December 21, 2022, a judgment of foreclosure would be entered.<sup>3</sup> The notice was published in accordance with the court’s order.

On December 23, 2022, Effect filed a motion for judgment.<sup>4</sup> Effect asserted that a copy of the summons, complaint, order of publication, notice, and all papers filed with the complaint had been served on the Estate of Donald R. Braun, Baltimore County, and the State of Maryland; that the property had been posted; and that all defendants and all parties having or claiming to have an interest in the property were notified by Order of Publication, in accordance with the court’s order. Effect requested that a judgment of foreclosure be entered. The court denied the motion on grounds that appellant, “on behalf of [the] father’s estate, filed an amended answer on [September 22, 2022].”

On March 2, 2023, Effect filed a motion for summary judgment, in which it asserted that appellant’s claim that SDAT improperly denied an application for a tax credit could not be collaterally attacked in the foreclosure proceeding. On March 23, 2023, the court entered a judgment foreclosing the rights of redemption in the Property based on a finding that “all known Defendants were personally served or were sent notice in accordance with

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<sup>3</sup> The October 21, 2022 Order of Publication superseded an earlier order that gave interested parties until September 21, 2022, to redeem the property.

<sup>4</sup> Also on December 23, 2022, Effect filed a motion for summary judgment, but the motion was stricken by the court because the motion and order had not been submitted as separate PDF files.

the Maryland Code Annotated, Tax Property Article, [§] 14-839(a)(4) and/or were notified by an Order of Publication . . . , and no redemption has been made by any party in interest.”

On April 12, 2023, appellant filed a motion to vacate the judgment of foreclosure. On April 19, 2023, appellant filed this appeal. On May 2, 2023, the court denied appellant’s motion to vacate the judgment of foreclosure. No appeal from that order was filed.<sup>5</sup>

### STANDARD OF REVIEW

The standard of review for a judgment entered in an action tried without a jury is governed by Maryland Rule 8-131(c), which provides:

When an action has been tried without a jury, the appellate court will review the case on both the law and the evidence. It will not set aside the judgment of the trial court on the evidence unless clearly erroneous, and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses.

“To the extent that a judgment involves a question of law, such as the proper interpretation or application of a statute, this Court makes its own determination of whether the trial court’s conclusions were legally correct.” *Thornton Mellon, LLC v. Adrienne Dennis Exempt Tr.*, 250 Md. App. 302, 319 (2021), *aff’d*, 478 Md. 280 (2022).

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<sup>5</sup> Because this appeal was filed before the court denied appellant’s motion to vacate the judgment of foreclosure, and because no appeal was filed from that order, we are without jurisdiction to review it. *See Brethren Mut. Ins. Co. v. Suchoza*, 212 Md. App. 43, 68 (2013) (“[A] notice of appeal must be filed within 30 days after the entry of the trial court’s ruling on a motion filed more than 10 days after entry of a judgment for this Court to have jurisdiction to review such ruling.”).

## DISCUSSION

“Title 14 of the Tax–Property article [(“TP”)] provides county governments a means of collecting property taxes that are in arrears.”<sup>6</sup> *Scheve v. Shudder, Inc.*, 328 Md. 363, 369 (1992). Pursuant to TP § 14-804, unpaid taxes on real estate constitute a lien on that property. To enforce the lien, county governments are authorized to sell delinquent property. TP § 14-808.

“After the tax sale, the property owner [or other person that has an estate or interest in the property]<sup>[7]</sup> has a right of redemption, which lasts until it is foreclosed in a court proceeding.”<sup>8</sup> *Fish Mkt. Nominee Corp. v. G.A.A., Inc.*, 337 Md. 1, 4 (1994) (citing TP § 14-827.) “The burden is on the holder of the certificate of tax sale to bring the foreclosure proceedings.” *Brashears v. Collison*, 207 Md. 339, 352 (1955).

“The tax sale statute sets out several steps that must be complied with before a circuit court may enter a final order” foreclosing the right of redemption:

- (1) the purchaser must file a complaint that conforms with § 14-835(a) within two years following the sale;
- (2) the purchaser must attach the certificate of sale (§ 14-835(b));
- (3) the purchaser must attach an affidavit of title search (§ 14-838);
- (4) the court must issue process and public

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<sup>6</sup> For purposes of tax sale foreclosure proceedings, tax is defined as “any tax, or charge of any kind due to the State or any of its political subdivisions, or to any other taxing agency, that by law is a lien against the real property on which it is imposed or assessed.” TP § 14-801(d)(1).

<sup>7</sup> See TP § 14-827.

<sup>8</sup> “In order to redeem the property, the owner [or interested party] must pay the collector, among other things, the amount already paid by the purchaser at the tax sale, plus interest at the applicable rate provided in § 14-820(b) from the date of the tax sale to the date of redemption.” *Fish Mkt.*, 337 Md. at 4-5 (citing TP § 14-828).

notice under §§ 14-839 and 14-840, setting out the time after which the right of redemption will be foreclosed.

*Scheve*, 328 Md. at 370. Once these requirements are complete, and the time limit set in the order of publication expires, the court is automatically authorized to enter judgment foreclosing the right of redemption. *See* TP § 14-844(a) (“After the time limit set in the order of publication and in the summons expires, the court shall enter judgment foreclosing the right of redemption.”).

If the court does not dismiss the action “under its own motion or the motion of an interested party[,]” no further action by the purchaser is necessary. *Scheve*, 328 Md. at 374-75. Under the provisions of the tax sale statute, the certificate of tax sale is “presumptive evidence” of “the truth of the statements in the certificate, of the purchaser’s title as described in the certificate, and of the ‘regularity and validity of all proceedings had in reference to the taxes for the nonpayment of which the property was sold and the sale of the property.’” *Taxi, LLC v. Mayor & City Council of Baltimore City*, 171 Md. App. 430, 438 (2006) (quoting TP § 14-823). And the request for the court to enter judgment foreclosing rights of redemption is included in the complaint. *Scheve*, 328 Md. at 373. “Permitting a circuit court to enter a final order under [TP] § 14-844 after the time period set forth in the purchaser’s notice to the owner [and other interested parties] is true to both the statutory language and the policy of encouraging the foreclosure of redemptive rights at tax sales.” *Id.* at 374.

To prevent entry of a judgment of foreclosure, short of redemption, a “defendant alleging any jurisdictional defect or invalidity in the taxes or in the proceeding to sell, or

in the sale, must particularly specify in the answer the jurisdictional defect or invalidity and must affirmatively establish the defense.” *Taxi*, 171 Md. App. at 438 (quoting TP § 14-842). This means that “the party attacking the sale must offer evidence to controvert the presumed facts.” *Id.* (citing *Josenhans, Inc. v. Jenkins*, 203 Md. 465, 474 (1954)). Although the statute relieves the purchaser of the burden of proof and shifts it to the party challenging the sale, “still the validity of the sale depends on there having been a substantial compliance on the part of the collector with all the essential requirements of the statute. This is in no manner dispensed with.” *Josenhans*, 203 Md. at 474 (quotation marks and citation omitted).

We perceive no error in the court’s determination that Effect was entitled to a judgment foreclosing rights of redemption in the Property. Under the terms of the Order of Publication, the right to redeem the Property expired on December 21, 2022. Based on our review of the record, all procedural requirements set forth in the tax sale statute were satisfied. Although appellant’s answer and amended answer may have included allegations that the tax for which the Property was sold was invalid or was improperly assessed, he offered no evidence to support these assertions, such as a sworn affidavit or testimony submitted in support of a motion to void the tax sale or other dispositive motion.

Appellant claims that, despite good faith efforts, he was unable to obtain information from Effect, the Office of the State Tax Sale Ombudsman, and the Baltimore

County Office of Budget and Finance, regarding the validity and amount of taxes due.<sup>9</sup> He argues that the judgment of foreclosure deprived him of his right to discovery. We disagree. The rules of civil procedure apply to all civil matters in the circuit court, except for certain juvenile matters and “as otherwise specifically provided or necessarily implied.”<sup>10</sup> Md. Rule 1-101(b). Consequently, appellant could have availed himself of the discovery procedures set forth in Maryland Rules 2-401 through 2-434 at any time after filing his answer.

In sum, appellant failed to affirmatively establish any jurisdictional defect or invalidity in the taxes or the tax sale. Consequently, we hold that the court properly exercised its authority, pursuant to TP § 14-844(a), to enter a judgment foreclosing the right of redemption in the Property.

**JUDGMENT OF THE CIRCUIT COURT  
FOR BALTIMORE COUNTY AFFIRMED.  
COSTS WAIVED.**

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<sup>9</sup> If there was any dispute regarding redemption, TP § 14-829(a) provides that “the person redeeming may apply to the court before which the [foreclosure] action is pending to fix the amount necessary for redemption[.]”

<sup>10</sup> Maryland Rules 14-501 through 14-506, which govern actions to foreclose the right of redemption in property sold at a tax sale, do not provide or imply that the rules of civil procedure are inapplicable in tax sale foreclosure cases.