Circuit Court for Baltimore City
Consolidated Case Nos. 24-C-17-005708 and 24-C-17-005762

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

Nos. 2005 and 2007
September Term, 2018

CONSOLIDATED CASES

THORNTON MELLON, LLC
v.
MAYOR AND CITY COUNCIL OF BALTIMORE

Graeff,
Beachley,
Alpert, Paul E.,
(Senior Judge, Specially Assigned)

JJ.

Opinion by Alpert, J.

Filed: February 3, 2020

The litigation that resulted in these consolidated appeals commenced when Thornton Mellon, LLC, ("Mellon"), appellant, filed in the Circuit Court for Baltimore City two complaints to foreclose the rights of redemption for two properties it purchased at a tax sale held by the Mayor and City Council of Baltimore ("the City"), appellee. The first complaint, filed in Case No. 24-C-17-005708, involved real property located at 2702 Oakley Avenue in Baltimore City ("the Oakley Avenue property"). The second complaint, filed in Case No. 24-C-17-005762, involved real property located at 5220 Ivanhoe Avenue in Baltimore City ("the Ivanhoe Avenue property"). In each case, the City filed a motion to find the tax sale certificate void ab initio and to dismiss the case.

On July 20, 2018, the circuit court granted the City's motions in both cases, declared the tax sale certificates void ab initio, found that the purchaser was entitled to the "return of the money paid for the liens and zero percent interest," and ordered "that no additional fees and expenses be awarded[.]" These timely appeals followed. By order dated February 6, 2019, we granted the parties' joint motion to consolidate the cases on appeal.

ISSUES PRESENTED

Appellant presents the following three issues for our consideration:

> I. Whether the circuit court erred in declaring the tax liens void ab initio and denying appellant interest and expenses as provided by § 14-848 of the Tax Property Article of the Maryland Code;
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> II. Whether a property sold at tax sale is properly deemed "void ab initio" when the City auctioned off a lien following the filing of an active bankruptcy case by the owner of record; and,
>
> III. Whether a property sold at tax sale is properly deemed "void ab initio" when the lien included real property taxes for which an exemption was granted subsequent to the tax sale as well as currently metered water, due and

> owing, which "in the normal course of business . . . would not have caused the property to be placed in tax sale."

For the reasons set forth below, we shall affirm the decisions of the circuit court.

FACTUAL BACKGROUND

The basic facts of these consolidated cases are not in dispute. On May 15, 2017, in an on-line auction, the City auctioned off to Mellon the Oakley Avenue and Ivanhoe Avenue properties subject to tax liens. Mellon filed complaints to foreclose the right of redemption and affidavits for attorney's fees and expenses as to each property. Thereafter, the City filed motions requesting the circuit court to find both tax sale certificates void ab initio and to dismiss the cases.

With respect to the Oakley Avenue property, the City asserted that in March 2016, the property was acquired by Park Heights Angel, Inc. ("PHA"). At some "unknown point in time," PHA applied to the State Department of Assessments and Taxation ("SDAT") for an exemption from real property taxes on the ground that the property was owned by a religious group or organization. In support of its motion, the City attached, as an exhibit, a March 17, 2018 letter from Marie C. Smith, SDAT's Supervisor of Assessments for Baltimore City, to the property owner. The letter provided, in relevant part:

> You have made application for exemption from real property taxes on the above captioned property. Your application has been reviewed by this department and our findings are as follows:
>
> The subject property meets the requirements of Tax-Property Title 7, and Section 7-204 of the Annotated Code of Maryland. The requested exemption has been **granted** beginning **03/01/16** and succeeding tax years.

The City did not provide any information with regard to the date on which PHA had applied for the exemption from real property taxes. Nevertheless, in its motion, the City argued that "[a]lbeit late in the game, the exemption was granted and covers the taxes included in the Certificate; taxes should never have been assessed."

The City also asserted that when the final bill and legal notice was sent to the property owner in February 2017, the only delinquent liens eligible for tax sale were the 2016 to 2017 real property taxes and residential registration charges. No metered water charge was listed in that notice. Nevertheless, "current charges" for metered water were included in the tax sale certificate. The City asserted that "[i]n the normal course of business this [the current metered water charge] would not have caused the property to be placed in the tax sale."

With respect to the Ivanhoe property, the City asserted that the tax sale certificate should be declared void ab initio because on March 14, 2016, Zenovia Deasha McLaurin, one of the defendants in the foreclosure action, filed in the United States Bankruptcy Court for the District of Maryland a petition for Chapter 13 bankruptcy and that proceeding was "still active." The City claimed that, as a result of the pending bankruptcy case, it "could not put the property into the 2017 tax sale" and, therefore, the tax sale certificate was void ab initio. The City acknowledged that it must return the lien amount to the holder of the tax lien certificate, but argued that the certificate holder was not entitled to any interest.

By orders entered on July 20, 2018, the circuit court granted the City's motions, determined that both tax sale certificates were void ab initio, found that the tax sale

purchaser was entitled to the return of the money paid for each of the liens at zero percent interest, and dismissed the cases.

DISCUSSION

I.

Mellon contends that the circuit court erred in holding that the tax sales were void ab initio and in failing to award interest on the amount paid to the collector on account of the purchase price of the properties at the rate provided in the certificates of tax sale as well as all expenses properly incurred. We are not persuaded.

A. 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.

Thus, in applying this rule, we defer to the circuit court's factual findings unless clearly erroneous, but we review its legal conclusions without deference. *Cunningham v. Feinberg*, 441 Md. 310, 321-22 (2015); *In re Elrich S.*, 416 Md. 15, 30 (2010); *Della Ratta v. Dyas*, 414 Md. 556, 565 (2010). "A factual finding is clearly erroneous if there is no competent and material evidence in the record to support it." *Hoang v. Hewitt Ave. Assocs., LLC*, 177 Md. App. 562, 576 (2007).

B. Applicable Case Law

Mellon argues that the circuit court erred in failing to award it interest and expenses pursuant to § 14-848 of the Tax-Property Article, which, at the time of the sale provided, as it does now:

> If the judgment of the court declares the sale void and sets it aside, the collector shall repay the holder of the certificate of sale the amount paid to the collector on account of the purchase price of the property sold, with interest at the rate provided in the certificate of tax sale, together with all taxes that accrue after the date of sale, which were paid by the holder of the certificate of sale or the predecessor of the holder of the certificate of sale, and all expenses properly incurred in accordance with this subtitle. If the collector paid the claims of any other taxing agency, the collector is entitled to a refund of the claim from the taxing agency with interest. The collector shall proceed to a new sale of the property under this subtitle and shall include in the new sale all taxes that were included in the void sale, and all unpaid taxes that accrued after the date of sale declared void.

Md. Code (2019 Repl. Vol.), § 14-848 of the Tax-Property Article ("TP").

Application of TP § 14-848 was discussed in two Maryland appellate cases that are relevant to the instant case. In *Heartwood 88, Inc. v. Montgomery County*, 156 Md. App. 333 (2004), we considered issues arising out of a tax sale of real property conducted by Montgomery County at which the county admittedly sold to Heartwood 88, Inc. ("Heartwood"), 331 properties for which the owners were not then delinquent in payment of their real property taxes. *Montgomery County*, 156 Md. App. at 338-39. Upon discovery of the errors, the county refunded the purchase monies to Heartwood along with interest at a rate of 8 percent. *Id.* at 339. Heartwood claimed that it was entitled to interest at the redemption rate of 20 percent, statutory attorney's fees of $400 per property, and other expenses. *Id.* After the county refused, Heartwood filed a declaratory judgment action in which it sought a declaration that the sales of the 331

properties were void and requested payment of the redemption rate of interest and the other fees and expenses to which it claimed it was entitled. *Id.* at 342-43. In a counterclaim, the county sought to recover the 8 percent interest it had paid to Heartwood. *Id.* Both parties filed motions for summary judgment. *Id.* After a hearing, the Circuit Court for Montgomery County rejected Heartwood's claims and ordered it to return to the county an amount representing the 8 percent interest. *Id.*

On appeal, we considered whether the circuit court erred in refusing to award Heartwood interest at the redemption rate of 20 percent, statutory attorney's fees of $400 per property, and other expenses, and whether it erred in ordering Heartwood to return the 8 percent interest payment to the county. With regard to Heartwood's claim for interest at the redemption rate of 20 percent, we recognized that the Montgomery County Council had passed a resolution in which it declared, *inter alia*, that the rate of redemption shall be the sum of the interest rate as provided in the Maryland Code, which was 8 percent, and a penalty rate on late payment of delinquent taxes, which was 12 percent, for a combined redemption rate of 20 percent. *Id.* at 350-51. We recognized that the "'high rate of return encourages potential tax sale purchasers to invest in the property despite the fact that the property is subject to a right of redemption.'" *Id.* at 351 (quoting *Fish Market Nominee Corp. v. G.A.A.*, 337 Md. 1, 5 (1994)).

Heartwood maintained that it did not matter that the errors were discovered prior to the filing of an action to foreclose, so that the sales were deemed void without the necessity of legal action by the owners or the parties, because it still had possession of the certificates of sale "and was entitled, as it did in this proceeding, to institute actions to

foreclose since it had not received all amounts it claims are due under the terms of the certificates and § 14-848." *Id.* at 354. According to Heartwood, the term "interest rate" as used in TP § 14-848 actually meant "redemption rate," that is, the sum of the interest and penalty rates of 8 and 12 percent. *Id*. at 352.

The county disagreed and argued that TP § 14-848 "was never triggered" because Heartwood had no basis to file an action to foreclose the right of redemption because the property owners had paid their taxes and never had to redeem their properties. *Id.* at 356. It maintained that Heartwood "knew the risks associated with purchases of property at tax sale and cannot realistically argue that the Legislature intended a profit in these unusual circumstances." *Id.* at 356. The county maintained that there were only two circumstances in which a purchaser of property at tax sale could receive expenses and interest on the purchase price as a remedy: (1) when an owner redeems the property and (2) when a court declares a sale void in the course of a suit to foreclose redemption. *Id.* at 357. Because neither circumstance occurred with respect to the properties purchased by Heartwood, the county asserted that it had "the independent authority to invalidate and declare 'void' the 331 sales, without paying the sums that might otherwise be required under T.P. § 14-848." *Id.* at 357.

After reviewing the statutory history of TP § 14-848, we concluded that the legislature did not intend for a tax sale purchaser to recover the redemption rate from the local government under the circumstances presented in that case. *Id.* at 364. We explained:

> [B]ecause the 331 owners had paid their delinquent taxes prior to the tax sale, redemption was not warranted. In turn, Heartwood was not statutorily entitled to file a complaint to foreclose, because it could not represent to the court that "the property has not been redeemed," as required by T.P. § 14-835(a)(3). And, without a complaint to foreclose, the record owners had no grounds on which to file answers challenging the validity of the tax sales . . . .
>
> Nor did Heartwood have a statutory right to insist that the court issue a judicial decree to declare the 331 sales as void, just so that it could bring itself within the purview of T.P. § 14-848. Put another way, Heartwood had no viable cause of action to foreclose the rights of redemption, which was a predicate to a judicial determination with regard to the validity of the tax sales. And the plain language of T.P. § 14-848 establishes that, because the court did not declare void the sales of the 331 properties (and had no grounds to do so), appellant did not qualify for the remedies provided in T.P. § 14-848.

Id. at 364-65 (footnote omitted).

We went on to hold that even if TP § 14-848 extended to a case involving the mistaken sale of properties, the statute would not be construed so as to authorize payment to the tax sale purchaser at the redemption rate of 20 percent or statutory attorneys' fees of $400 per property. We determined that the interest rate was a separate element of the redemption rate, which was composed of the interest rate and a penalty. *Id.* at 365-66. We also recognized that the statute governing attorney's fees was clear that redemption was a condition precedent to the obligation to pay the statutory attorney's fees. *Id.* at 366. Because no redemption occurred, Heartwood was not entitled to the redemption rate or statutory attorney's fees. Nevertheless, applying principles of equitable estoppel, we held that because Heartwood relied upon the county's representations that invalidated sales would yield interest of 8 percent to tax purchasers, Heartwood was entitled to recover interest from the county at the rate of 8 percent. *Id.* at 367.

Several years after our decision in *Montgomery County*, we again considered the application of TP § 14-848 in a case involving Heartwood. In *Howard County v. Heartwood 88, LLC*, 178 Md. App. 491 (2008), we considered whether the county was obligated to pay interest on money it refunded to Heartwood, a tax sale purchaser of property for which no taxes were owed and none ever should have been assessed. *Howard County*, 178 Md. App. at 492-93. The property at issue was a parking lot that, on July 20, 1999, was conveyed from Elkhorn Associates, LLP to the Allen & Shariff Condominium. Once the property was conveyed, it was no longer an independently taxable parcel of land. *Id.* at 493. Nevertheless, the SDAT erroneously continued to assess taxes against the property. *Id.* When the taxes had not been paid for two years, it was included in the county's tax sale on June 6, 2001. *Id.* All of the bidders at the tax sale signed written terms of the tax sale that included the following:

> D. VOIDED SALE. Whenever a tax sale on a property is voided, for any reason, the Purchaser will be notified and advised not to pursue any further foreclosure action or to incur additional expenses. *Reimbursement will be limited to the amount paid at the sale unless otherwise required by law.*

Id. at 493.

About two years after Heartwood purchased the property, it filed suit in the Circuit Court for Howard County to foreclose the rights of redemption. *Id.* at 494. A title search performed for Heartwood failed to reveal the conveyance to Allen & Shariff Condominium, although a complete search would have revealed it. *Id.* After Heartwood filed its action to foreclose the rights of redemption, the SDAT realized its error and, subsequently, Heartwood was notified that the taxable assessment for the years 2000-

2006 was zero and that the county would refund the tax sale payment. *Id.* at 495. Heartwood took the position that the county had no power to invalidate the tax sale and that only the circuit court had that power under TP § 14-848. *Id.* In addition, it maintained that even if the court were to declare the tax sale void under that statute, it was entitled to repayment of the purchase price, interest at the rate of 18 percent as provided in the certificate of tax sale, all taxes paid after the date of the sale, and expenses incurred in accordance with the Tax Property Article. *Id.*

The county disagreed and argued that it had the right, as a matter of contract, to declare the tax sale void and that Heartwood was entitled to a refund of the purchase price paid for the property, without interest or expenses. *Id.* After a hearing, the circuit court entered an order setting aside the tax sale as void and ordering the county to pay Heartwood in accordance with TP § 14-848. *Id.* at 496.

On appeal, we considered whether the circuit court erred as a matter of law in ruling that the tax sale was invalid and that Heartwood was entitled to reimbursement as provided in TP § 14-848. Heartwood argued that the county could not itself invalidate the tax sale. Because the action to foreclose the title owner's right of redemption was filed prior to the discovery of the error in the underlying tax sale, Heartwood maintained that the court had the power to declare the sale invalid and, pursuant to TP § 14-848, to award interest on the refunded purchase money as stated in the certificate of sale. We held that TP § 14-848 "cannot cover a tax sale that is void from its inception due to an error in assessing any tax to begin with or due to there not being any tax arrearage for

which to sell the property. It only can cover a tax sale that was procedurally invalid or erroneous but correctable." *Howard County*, 178 Md. App. at 502. We explained:

> Our reading of the language in TP section 14-848 is consistent with our holding in *Montgomery*, that when a tax sale is void from its inception, there is no right of redemption in the erroneously sold property, and therefore no predicate for a suit to foreclose the right of redemption. To be sure, in *Montgomery*, the tax sale purchaser had not yet filed suit when the error in selling the property was discovered, and it would not have been able to do so, in part because it could not represent, as required in filing an action to foreclose right of redemption, under TP section 14-835(a)(3), that the defendant title owners had a right to redeem their properties. The existence of such a suit is a necessary prerequisite to application of TP section 14-848, as is a response challenging the validity of the tax sale procedure, under TP section 14-842.
>
> We did *not* hold in *Montgomery*, however, that when, after a suit to foreclose right of redemption in property sold at tax sale has been filed, it is discovered that the tax sale in fact was void at its inception, TP section 14-848 necessarily applies and is the sole mechanism for declaring the tax sale void. As we have explained, TP section 14-848 by its plain language cannot cover a tax sale that is void at its inception. Its language contemplates a procedural or correctable error in the sale, not a sale that, for substantive reasons, never should have taken place to begin with.
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> * * *
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> In the case at bar, as soon as the County was served, it filed a motion to dismiss the tax sale foreclosure action against it and Elkhorn, alleging that the SDAT erroneously assessed taxes on the Property and, in fact, when the Property was sold for taxes on June 6, 2001, no taxes were owed.
>
> Those facts, which were undisputed, established that there was no basis for that sale of the Property and there was no right of redemption in the Property to foreclose. On those undisputed facts, the court should have dismissed Heartwood's action to foreclose right of redemption in the Property. The court should not have granted Heartwood's motion to declare tax sale void under TP section 14-848, as that statute does not apply when the tax sale at issue is void at its inception, because taxes mistakenly were assessed. Once the action was dismissed as it should have been, the County, through its collector, was contractually entitled, under the "Terms

> of the 2001 Tax Sale," to declare the tax sale of the Property void, without payment of interest or expenses.

Id. at 502-04 (footnote omitted).

C. The Ivanhoe Avenue Property

The Ivanhoe Avenue property was sold at tax sale despite the fact that the property owner had filed a Chapter 13 bankruptcy case and an automatic stay pursuant to 11 U.S.C. § 362 was in place. Mellon contends that the circuit court erred in failing to award it interest and expenses pursuant to TP § 14-848 after determining that the tax sale was void ab initio because the City provided no evidence that the taxes were not properly assessed or that there was any error in the proceeding. Mellon further claims that the automatic stay had been lifted with respect to the Ivanhoe Avenue property well before the tax sale. According to Mellon, a tax sale in violation of an automatic stay arising from a bankruptcy case is "erroneous but correctable" and, therefore, subject to TP § 14-848. We disagree.

The fact that the property owner, Zenovia McLaurin, filed for federal bankruptcy protection, is not in dispute. Indeed, Ms. McLaurin's bankruptcy case was noted on the title search report prepared by Mortiles LLC and attached to Mellon's complaint to foreclose the right of redemption. Nor is there any dispute that the bankruptcy filing was instituted on or about March 14, 2016, or that, under federal bankruptcy law, the filing of a petition for bankruptcy "operates as a stay, applicable to all entities, of . . . any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate" of the debtor. 11 U.S.C. § 362(a)(3). Both parties also agree, and we have long recognized, that actions taken in violation of the automatic stay in

bankruptcy cases are void *ab initio*. *See Kochhar v. Amar Nath Bansal*, 222 Md. App. 32, 39 (2015)(and cases cited therein); *Swarey v. Stephenson*, 222 Md. App. 65, 83-84 (2015)(prevailing view is that state court lacks subject matter jurisdiction over civil action commenced during automatic stay which stops all collection efforts, harassment, and foreclosure actions). Mellon argues, however, that the City had the right to sell the tax lien on the Ivanhoe Avenue property because the automatic stay had been lifted by the bankruptcy court.

In its opposition to the City's motion to find the tax sale certificate void ab initio and to dismiss the case, Mellon asserted that the automatic stay was lifted by the United States Bankruptcy Court for the District of Maryland on October 28, 2016, as indicated in an order modifying the automatic stay. That order was granted by consent of one debtor and the default of another debtor, for the limited purpose of modifying the automatic stay to permit M&T Bank, "its assigns and/or successors, to commence foreclosure proceedings in the Circuit Court for Baltimore City, Maryland against" the Ivanhoe Avenue property. The modification lifting the stay was itself stayed provided that the debtors make certain payments specified in the order. There is absolutely nothing in the Bankruptcy Court's order to suggest that the automatic stay was lifted or modified in any way with respect to the City's tax sale or Mellon's complaint to foreclose the right of redemption. Because the City's sale of the tax lien on the Ivanhoe Avenue property was barred by the automatic stay pursuant to 11 U.S.C. § 362, the tax sale was void from its inception.

Moreover, contrary to Mellon's contention, the City's error in auctioning the lien on the Ivanhoe Avenue property was not correctible. In *Howard County*, we wrote:

> By its plain language, therefore, TP section 14-848 cannot cover a tax sale that is void from its inception due to an error in assessing any tax to begin with or due to there not being any tax arrearage for which to sell the property. It only can cover a tax sale that was procedurally invalid or erroneous but correctible.

Howard County, 178 Md. App. at 502.

Here, there was no procedural error that could be corrected by the City to cure the fact that the tax sale was void as a result of the automatic stay and, thereby, bring the case within TP § 14-848. Certainly, as Mellon points out, in appropriate and limited circumstances, the Bankruptcy Court has the discretion to annul an automatic stay pursuant to § 362 of the Bankruptcy Code and to grant relief retroactively to validate actions taken in violation of the automatic stay,[1] but the clear language of TP § 14-848 "contemplates a procedural or correctable error in the sale, not a sale that, for substantive reasons, never should have taken place to begin with." *Howard County*, 178 Md. App. at 502. Pursuant to the plain language of TP § 14-848 and our holdings in *Howard County* and *Montgomery*

[1] The determination of whether relief from an automatic stay in a bankruptcy case should be granted retroactively lies in the "wide latitude" of the court and is made on a case-by-case basis. *In re: Maggallanez*, 403 B.R. 558, 562 (2009)(quoting *In re Syed*, 238 B.R. 133, 144 (Bankr. N.D.Ill. 1999). In *In re Syed*, the Bankruptcy Court explained:

> "Annulment is unique because it asks the court to approve post-petition action which violated the automatic stay. Courts have been hesitant to annul the stay because of the nature of the relief, specifically that it works in a retroactive manner. Such relief can only be granted in accordance with equitable principles. Annulment can only be granted if the creditor did not have knowledge of the applicability of the automatic stay and to allow the automatic stay to apply would unfairly prejudice the creditor."

238 B.R. at 144 (quoting *In re Szyszko*, 234 B.R. 408, 412 (Bankr. N.D.Ill. 1999)).

County, it is clear that the tax lien sale was void from its inception for substantive reasons, specifically the automatic stay imposed by the bankruptcy proceeding. We find no error in the circuit court's determination that Mellon is entitled to a refund of its purchase price for the Ivanhoe Avenue property and zero percent interest.

D. The Oakley Avenue Property

As to the Oakley Avenue property, Mellon contends that in addition to the return of the amount paid for the purchase price, it is entitled to interest and expenses pursuant to TP § 14-848. It further argues that the City failed to provide any authority for its position that an unpaid water bill would not have caused the property to be placed in the tax sale. According to Mellon, the taxes were owed and the sale was not void at its inception. Mellon also challenges references in the City's brief on appeal to certain business rules, notices, and frequently asked questions on its webpage. In particular, Mellon takes issue with statements providing that, when a tax lien certificate is declared void, the City shall return the lien amount to the holder of the tax lien certificate, at a rate of zero percent interest, and that no legal and other fees shall be paid. Mellon maintains that it did not sign the business rules, notices, or frequently asked questions, that those documents were not submitted to the circuit court, and that to the extent those documents contravene Maryland's tax sale statute, they should not be enforced. Mellon's contentions are without merit.

In granting the property owner's request for an exemption from real property taxes based on the owner's status as a religious group or organization[2], the SDAT appears to have applied TP § 7-202(d), which allows a real property tax exemption to apply retroactively from the date during the taxable year when the property was acquired by the organization.[3] By granting the tax exemption retroactively, so as to begin on March 1, 2016, the SDAT determined that the property owner was not subject real property tax

[2] Section 7-204 of the Tax Property Article provides:

> Subject to § 7-204.1 of this subtitle, property that is owned by a religious group or organization is not subject to property tax if the property is actually used exclusively for:
> (1) public religious worship;
> (2) a parsonage or convent; or
> (3) educational purposes.

[3] Section 7-202(d) of the Tax Property Article provides:

> (d)(1) Notwithstanding § 7-104 of this title and after filing the application provided by § 7-103 of this title, property tax on any property that is transferred to a nonprofit charitable organization is abated from the date during the taxable year when the instrument transferring title to the organization is recorded if:
> (i) the property is transferred to a nonprofit charitable organization qualified under § 501(c)(3) of the Internal Revenue Code:
> (ii) the property becomes exempt under this section;
> (iii) the property has a value less than $300,000 as listed in the records of the Department on the date when the instrument transferring title to the organization is recorded; and
> (iv) the nonprofit charitable organization provides the Department evidence of the property tax it actually paid or reimbursed at the property settlement.
> (2) The amount of property tax abated under this subsection may not exceed the amount of property tax actually paid or reimbursed by an eligible organization at the property settlement.

assessments on the Oakley Avenue property. As the property owner did not owe any real property taxes, the City had no legal right to sell the property. Moreover, no procedural error in the sale was correctable because the City had no right to proceed to a new sale that could include all of the taxes that were included in the void sale.

Nor is there any merit in Mellon's argument with respect to the unpaid water charges that were included on the tax sale certificate. The parties do not dispute that in February 2017, a final bill and legal notice was sent to the property owner and that it listed 2016/17 real property taxes and a residential registration charge as delinquent liens. After Mellon became the successful bidder at the May 15, 2017 tax sale, the City issued a tax sale certificate that included the delinquent liens as well as current charges for metered water that were not included on the final bill and legal notice sent to the property owner. Although the metered water charges included in the lien sold to Mellon were for "current" charges, TP § 14-849.1(a)(2), currently codified at TP § 14-891.1(a)(3), prohibited the City from selling "a property solely to enforce a lien for unpaid charges for water and sewer services unless . . . (2) the unpaid charges for water and sewer service are at least 3 quarters in arrears." Accordingly, the City was not permitted to sell the lien on the property for current metered water charges.

We also reject Mellon's argument that we should not consider the fact that it agreed to the basic service user agreement that was included in the City's "Tax Sale Business Rules," because a copy of the agreement was never presented to the circuit court. In its motion to find the tax sale certificate for the Oakley Avenue property void ab initio and to dismiss the case, the City specifically referred to the business rules, notices, and frequently

asked questions pertaining to tax sales, all of which were included on its webpage. The City referenced the provision requiring it to "return the lien amount to the Tax Lien Certificate Holder, and pay zero percent (0%) interest on the lien value of any Tax Lien Certificate voided subsequent to award." The City also referred to the following provisions:

> No legal or other fees incurred by the Tax Lien Certificate Holder shall be paid by the City for voided Tax Lien Certificates. Reasons for declaring tax lien certificates void shall include but are not limited to the following: lien previously paid, lien the result of an incorrect or erroneous assessment, lien barred by law from being placed in the tax sale, open-active bankruptcy cases, open-active foreclosure cases, lien resulting from clerical errors affecting the validity of the tax sale.

At no time did Mellon claim that it had not agreed to the terms of the City's basic service user agreement. Nor did it object to or challenge the truth of the City's averments with respect to the basic service user agreement, the tax sale business rules, notices, and frequently asked questions pertaining to tax sales that were included on the City's webpage. Rather, Mellon argued that the charge for current metered water was properly assessed. Thus, any argument that Mellon might have had with respect to its acceptance of the City's basic service user agreement, the tax sale business rules, and other information pertaining to tax sales included on the City's webpage was waived.

JUDGMENTS OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED; COSTS TO BE PAID BY APPELLANT.