STATE OF MICHIGAN

COURT OF APPEALS

MICHAEL KELLY,

Plaintiff-Appellant,

v

DETROIT HOUSING COMMISSION,

Defendant-Appellee.

UNPUBLISHED
November 16, 2004

No. 249053
Wayne Circuit Court
LC No. 02-202595-CH

Before: Cavanagh, P.J., and Kelly and H. Hood*, JJ.

PER CURIAM.

Plaintiff appeals as of right from an order granting defendant's motion for summary disposition and dismissing plaintiff's action to quiet title to a parcel of property to which plaintiff obtained a tax deed under the provisions of the former General Property Tax Act.[1] We affirm as modified.

First, plaintiff argues that the trial court improperly limited oral argument on defendant's motion. A trial court's decision to limit or dispense with oral argument is discretionary. MCR 2.119(E)(3). Here, the parties had briefed the issues and the trial court indicated that it had read the parties' briefs and did not require further argument. We cannot conclude that such decision constituted an abuse of discretion. See *Fast Air, Inc v Knight*, 235 Mich App 541, 550; 599 NW2d 489 (1999).

Next, plaintiff argues that the trial court erred in concluding that notice was deficient under MCL 211.140(1)(a). Plaintiff does not challenge the trial court's apparent determination that the City of Detroit ("the City") was the "last grantee . . . in the regular chain of title . . . according to the records of the county register of deeds." MCL 211.140(1)(a). Rather, relying

[1] As explained in *Burkhardt v Bailey*, 260 Mich App 636, 647 n 5; 680 NW2d 453 (2004), the Legislature has changed the procedure to collect taxes assessed after December 31, 1998, that become delinquent, and the statutes at issue were repealed effective either December 31, 2003, or December 31, 2006.

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

on MCL 211.140(7), plaintiff argues that the service of notice on the general counsel for the Detroit Housing Commission was sufficient to satisfy the statutory notice requirements. We disagree.

MCL 211.140(7) provides:

> Service on a corporation may be made on the president, secretary, treasurer, or a resident agent of the corporation, or by leaving the notice at the principal or registered office of the corporation with a person in charge of the office. . . .

"'[S]trict compliance with the tax sale notice provisions is required.'" *Equivest Ltd Partnership v Foster*, 253 Mich App 450, 454-455; 656 NW2d 369 (2002), quoting *Brandon Twp v Tomkow*, 211 Mich App 275, 284; 535 NW2d 268 (1995). A general counsel is not one of the positions specified in the statute. Even if it was, the person identified, Frank Barber,[2] was general counsel for the DHC, not the City. And, even if Barber, as general counsel, could be deemed a person "in charge of th[at] office," plaintiff has not explained or cited any authority to support the view that the DHC should be considered "the principal or registered office of" the City. We will not attempt to rationalize the basis for plaintiff's claims or search for legal authority to support such claims. See *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998), quoting *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959).

Plaintiff does argue, however, that MCR 2.105(G)(2), which governs service of process on a municipal corporation, is "helpful for determining how to properly serve a corporation." That rule has no bearing on the service required by MCL 211.140. The court rule allows service on the "city attorney" and an officer with substantially the same duties. But this Court may not engraft those provisions into MCL 211.140, because this Court does not "judicially legislate by adding into a statute provisions that the Legislature did not include." See *In re Wayne Co Prosecutor*, 232 Mich App 482, 486; 591 NW2d 359 (1998). Strict compliance with the statutory notice provisions is required, "even if doing so produces anomalous results." *Equivest Ltd Partnership, supra* at 459. Plaintiff's argument that the service provided actual notice as shown by the attempt to redeem is not persuasive. Actual notice does not satisfy the statute's notice requirements. *Equivest Ltd Partnership, supra* at 454-455, citing *Brandon Twp, supra* at 284. Because the six-month redemption period does not begin to run as to the City until it receives the notice prescribed by MCL 211.140, *Burkhardt v Bailey*, 260 Mich App 636, 647-648; 680 NW2d 453 (2004), plaintiff's action to quiet title was properly dismissed since he had not served the City with the required statutory notice.

The parties also dispute whether the City redeemed the property. The trial court's order is unclear with regard to whether, apart from granting defendant's motion for summary disposition and dismissing plaintiff's complaint, it affirmatively quieted title in the City. Procedurally, it would have been improper to quiet title in the City. In addition to the fact that the City was not named as a party defendant to plaintiff's action, if the City was claiming that

---

[2] Defendant alleges that the correct name is "Barbee," not "Barber."

title should be quieted in it, then it should have moved to intervene and filed a counterclaim to that effect. See, e.g., MCR 2.209; *Richard v Ryno*, 158 Mich App 513, 516; 405 NW2d 184 (1987).

Moreover, the evidence before the trial court indicated that the City did not pay the full redemption amount that was due. The parties acknowledge that plaintiff acquired his interest through a tax sale of the 1995 and 1996 taxes, for which plaintiff paid $2,039.50. The City later paid $1,499.08 to redeem the property. The documentation presented to the trial court shows that the redemption amount was for the 1996 taxes only. No evidence was presented concerning payment of the 1995 taxes. Because the City did not show that it paid the redemption amount for the 1995 taxes, it was not entitled to have title quieted in it.

Therefore, we affirm the trial court's order dismissing plaintiff's action, but the matter is remanded for modification of the dismissal order so as to delete any suggestion that its effect is to quiet title in the City.

Affirmed, but remanded for proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Mark J. Cavanagh
/s/ Kirsten Frank Kelly
/s/ Harold Hood