

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In re Petition of WAYNE COUNTY TREASURER  
for Foreclosure.

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DJELOSH JUNCAJ and SHERRY JUNCAJ,

Petitioners-Appellees,

v

WAYNE COUNTY TREASURER and  
BELMONT PROPERTIES OF MICHIGAN,  
L.L.C.,

Respondents,

and

FS CONSTRUCTION, L.L.C.,

Respondent-Appellant.

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UNPUBLISHED  
September 17, 2009

No. 282145  
Wayne Circuit Court  
LC No. 05-517048-PZ

Before: Sawyer, P.J., and Cavanagh and Hoekstra, JJ.

PER CURIAM.

This appeal involves one of several parcels of property that were subject to a foreclosure action filed by the Wayne County Treasurer in June 2005, under the General Property Tax Act (GPTA), MCL 211.1 *et seq.*, for nonpayment of property taxes. The parcel consists of seven adjacent lots that were assigned a single tax identification number when the 2003 taxes were assessed. A foreclosure judgment was entered in March 2006 that granted vested fee simple title to the property and other parcels in favor of the Wayne Country Treasurer, without further redemption rights, “if all the forfeited delinquent taxes, interest, penalties and fees . . . are not paid . . . on or before March 31, 2006.” In July 2007, Djelosh Juncaj, the titleholder of record for the property beginning in 1984 and continuing up to the time of the foreclosure judgment, and his wife Sherry Juncaj, petitioned the trial court for injunctive and declaratory relief. The trial court, treating the petition as one seeking relief from the foreclosure judgment, granted the petition on November 1, 2007, based on its determination that Djelosh Juncaj was not afforded

due process. FS Construction, L.L.C., appeals as of right. We dismiss the appeal for lack of standing.

Because this Court previously denied the Juncajs' motion to dismiss, we assume for purposes of review that the November 1, 2007 order qualifies as a final order under MCR 7.202(6) to invoke this Court's jurisdiction pursuant to MCR 7.203(A)(1). Although the law of the case doctrine is a discretionary rule of practice, *Kalamazoo v Dep't of Corrections (After Remand)*, 229 Mich App 132, 135-136; 580 NW2d 475 (1998), the "doctrine holds that a ruling by an appellate court on a particular issue binds the appellate court and all lower tribunals with respect to that issue," *Ashker v Ford Motor Co*, 245 Mich App 9, 13; 627 NW2d 1 (2001).

Nonetheless, we find merit to the Juncajs' claim that FS Construction lacks standing to challenge the trial court's decision to set aside the foreclosure judgment. An issue of standing may be raised at any time, even sua sponte by an appellate court. *Kallman v Sunseekers Prop Owners Ass'n, LLC*, 480 Mich 1099; 745 NW2d 122 (2008); *Michigan Chiropractic Council v Comm'r of the Office of Financial & Ins Services*, 475 Mich 363, 370-374; 716 NW2d 561 (2006) (opinion by Young, J.). "To maintain an appeal, a person must ordinarily be 'aggrieved' by the lower court's decision." *Spires v Bergman*, 276 Mich App 432, 441; 741 NW2d 523 (2007); see also MCR 7.203(A). It is not enough that the person is disappointed in the result, *Spires, supra* at 441, or has a personal stake in the outcome of litigation, *MOSES, Inc v Southeast Michigan Council of Gov'ts*, 270 Mich App 401, 414; 716 NW2d 278 (2006). A person claiming standing in an appeal to this Court must show that the trial court's action caused an injury in fact, that is, the invasion of a legally protected interest that is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical in nature. *Manuel v Gill*, 481 Mich 637, 645 n 4; 753 NW2d 48 (2008); *People v Hopson*, 480 Mich 1061; 743 NW2d 926 (2008).

Standing has been found where a party, in an individual or representative capacity, has some real interest in a cause of action, or a legal or equitable right, title, or interest in the subject matter of the controversy. *MOSES, Inc, supra* at 414. And where a party seeks to litigate rights of another, in addition to showing the requisite injury, the party must have a close relationship with the third party possessing the right to litigate the claim. *Michigan Chiropractic Council, supra* at 377-378 (opinion by Young, J.) (adopting federal standards for third-party standing). Further, the party must show that "there is a 'hindrance' to the third party's ability to protect his or her own interests." *Id.* at 378 (opinion by Young, J.).

Here, the subject matter of the controversy between the Wayne County Treasurer and the Juncajs is the delinquent taxes that enabled the Wayne County Treasurer to take action under the GPTA to collect the delinquent taxes through foreclosure, but the foreclosure action itself is an action in rem, *Detroit v 19675 Hasse*, 258 Mich App 438, 447-452; 671 NW2d 150 (2003). The case does not involve competing claims of superior title to the disputed property, such as may exist in an equitable action to quiet title, *Beulah Hoagland Appleton Qualified Personal Residence Trust v Emmet Co Rd Comm*, 236 Mich App 546, 550; 600 NW2d 698 (1999), but statutory violations sufficient to offend due process rights in a foreclosure action provide a basis for nullifying a deed, *Gillie v Genesee Co Treasurer*, 277 Mich App 333, 349; 745 NW2d 137 (2007).

Had this been a case where FS Construction claimed standing based on record evidence that it acquired title to the property from the Wayne County Treasurer's quitclaim grantee, Belmont Properties of Michigan, L.L.C., and that it retained that title, we would find that it has standing to pursue this appeal. It would place form over substance to allow a person to argue in an action to quiet title against a person claiming title through a foreclosure judgment, which vests title in the Wayne County Treasurer, that the title was not enforceable, while at the same time denying the person claiming title through the foreclosure judgment a right to contest action taken by a trial court to set aside the foreclosure judgment under MCR 2.612(C)(1), as was done in this case on this same ground. Cf. *Eastern Constr Co v Cole*, 52 Mich App 346, 350; 217 NW2d 108 (1974) (intervention proper to allow a person with title to property to move to set aside a judgment foreclosing on a mechanic's lien, where the judgment was being used to evict the individual).

Nonetheless, there is evidence in the record before us that FS Construction sold the property. We disagree with FS Construction's argument that the earlier temporary restraining order (TRO) entered by the trial court, which precluded it from selling the property, is enough to provide it with standing to challenge the November 1, 2007 order setting aside the foreclosure judgment. The purpose of a TRO is to prevent irreparable injury, loss, or damage. MCR 3.310(B)(1)(a). Whether the TRO was properly issued in this case is not relevant to the propriety of the trial court's subsequent decision to set aside the foreclosure judgment. Therefore, we conclude that the TRO provides no basis for FS Construction to claim that it has standing to challenge the trial court's decision to set aside the foreclosure judgment in this appeal.

While a party claiming an appeal by right from a final order is free to raise issues related to past orders, *Green v Ziegelman*, 282 Mich App 292, 301 n 6; 767 NW2d 660 (2009), FS Construction's challenge to the enforceability of the TRO is moot because that order is no longer in effect and the trial court did not grant injunctive relief as part of the November 1, 2007, order, *Acorn Bldg Components, Inc v Local Union No 2194, UAW*, 164 Mich App 358, 363; 416 NW2d 442 (1987). The fact that the Juncajs initiated contempt proceedings on October 30, 2007, does not entitle FS Construction to review because the contempt proceedings are not within the scope of this appeal.

In any event, the record discloses that the trial court ultimately resolved this matter in favor of FS Construction by denying the Juncajs' motion for a contempt order. "An issue is moot if an event has occurred that renders it impossible for the court, if it should decide in favor of the party, to grant relief." *Michigan Nat'l Bank v St Paul Fire & Marine Ins Co*, 223 Mich App 19, 21; 566 NW2d 7 (1997). Mootness, like standing, presents a question of justiciability that may be raised at any time. *Michigan Chiropractic Council, supra* at 371-374 (opinion by Young, J.). The general rule that a court does not decide moot issues applies to FS Construction's challenge to the issuance of the TRO and, therefore, we decline to address it. *Federated Publications, Inc v Lansing*, 467 Mich 98, 112; 649 NW2d 383 (2002). Coupled with FS Construction's failure to demonstrate any standing to challenge the November 1, 2007 order appealed from, FS Construction has not shown any issue meriting our review.<sup>1</sup>

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<sup>1</sup> Even if we were to find that FS Construction has standing to challenge the trial court's  
(continued...)

Dismissed.

/s/ David H. Sawyer  
/s/ Mark J. Cavanagh  
/s/ Joel P. Hoekstra

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(...continued)

decision to set aside the March 2006 foreclosure judgment, we would not reverse because consideration of all the circumstances, including the failure of the attempted service at the Hamtramck address and the evidence that Djelosh owned lot nos. 695 to 702, but was not the taxpayer of record, demonstrates that it was unreasonable for the Wayne County Treasurer to ignore the more recent address in the mortgage document that was discovered during the title search for lot nos. 695 to 702. The trial court did not err in concluding that Djelosh was denied minimal due process. Cf. *Sidun v Wayne Co Treasurer*, 481 Mich 503, 515; 751 NW2d 453 (2008); *First Nat'l Bank of Chicago v Dep't of Treasury*, 280 Mich App 571, 582; 760 NW2d 775 (2008).