

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

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|--|---|------------------------|
| Edward Leonard, Treasurer,<br>Franklin County, Ohio, | : |                        |
|  | : |                        |
| Plaintiff-Appellee,                                  | : |                        |
|  | : | No. 16AP-514           |
| v.   | : | (C.P.C. No. 15CV-9546) |
|  | : |                        |
| You Properties, Inc. et al.,                         | : | (REGULAR CALENDAR)     |
|  | : |                        |
| Defendants-Appellees.                                | : |                        |
|  | : |                        |

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D E C I S I O N

Rendered on November 22, 2016

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**On brief:** *Michael J. Young*, pro se. **Argued:** *Michael J. Young*.

**On brief:** *Ron O'Brien*, Prosecuting Attorney, and *William J. Stehle*, for appellee. **Argued:** *William J. Stehle*.

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APPEAL from the Franklin County Court of Common Pleas

PER CURIAM.

{¶ 1} In this tax foreclosure case, Michael J. Young, the purported assignee of You Properties, Inc., filed a notice of appeal from the decision and entry of the Franklin County Court of Common Pleas that overruled his motion for summary judgment and sustained the Franklin County Treasurer's ("Treasurer") motion for summary judgment. The Treasurer has filed a motion to dismiss the appeal, arguing that Mr. Young lacks standing to assert any rights on behalf of You Properties, Inc., the record owner of the foreclosed property. For the following reasons, we dismiss this appeal for lack of jurisdiction and overrule the Treasurer's motion as moot.

{¶ 2} The Treasurer filed a complaint for foreclosure under R.C. 5721.18 on October 26, 2015, based on a lien for delinquent land taxes concerning a condominium

property in Gahanna, Ohio. The complaint named a number of parties with potential interests in the subject property as defendants. You Properties, Inc., was identified as the record owner of the property in question, based on a recorded warranty deed. The complaint did not name Mr. Young as a party, although he was identified as the "servicing agent" for You Properties, Inc. (Oct. 26, 2015 Compl. for Foreclosure.)

{¶ 3} On January 27, 2016, Mr. Young filed an answer that identified himself as the "Assignee of Defendant YOU Properties, Inc., per an Assignment dated January 7, 2016." No copy of the assignment was attached to the answer. The trial court's docket does not reflect that any attorney of record ever entered a notice of appearance on behalf of You Properties, Inc.

{¶ 4} Mr. Young subsequently filed a motion for summary judgment, asserting that provisions of the Ohio Revised Code authorizing the foreclosure of property subject to a tax lien were "wholly unconstitutional and against 'public policy,' " and that the "doctrine of sovereignty" precluded taxation of the property. (Emphasis sic.) (Apr. 25, 2016 Mot. of Michael J. Young for Summ. Jgmt.)

{¶ 5} The Treasurer also filed a motion for summary judgment, asserting that no real estate taxes had been paid for the property and that it was entitled to foreclosure under R.C. 5721.18 and 5721.37. Certified copies of the warranty deed identifying You Properties, Inc. as the owner of the property and the unpaid tax bill were attached to the motion. (Apr. 27, 2016 Pl.'s Mot. for Summ. Jgmt.)

{¶ 6} The trial court granted summary judgment in favor of the Treasurer. In addition to rejecting Mr. Young's arguments on their merits, it noted that he had provided "no evidence" to support his assertion that he was the assignee of You Properties, Inc. (Jun. 13, 2016 Decision & Entry.)

{¶ 7} Mr. Young appealed the trial court's decision, asserting that the trial court erred by not dismissing the foreclosure case on constitutional grounds. The Treasurer responded to Mr. Young's arguments, but also filed a motion to dismiss that challenges his standing to bring this appeal.

{¶ 8} Although the parties have not raised the issue, we must consider whether this appeal has appropriately invoked our jurisdiction. "Courts of appeals shall have such jurisdiction as may be provided by law to review and affirm, modify, or reverse judgments

or final orders of the courts of record inferior to the court of appeals within the district" in which they reside. Ohio Constitution, Article IV, Section 3(B)(2). To properly lie within our jurisdiction, an appeal must arise from a final appealable order. *Id.*; R.C. 2505.03(A); *see also Gen. Acc. Ins. Co. v. Ins. Co. of N. Am.*, 44 Ohio St.3d 17, 20 (1989) ("It is well-established that an order must be final before it can be reviewed by an appellate court. If an order is not final, then an appellate court has no jurisdiction.").

{¶ 9} According to the Supreme Court of Ohio, there are:

[T]wo judgments appealable in foreclosure actions: the order of foreclosure and the confirmation of sale. The order of foreclosure determines the extent of each lienholder's interest, sets forth the priority of the liens, and determines the other rights and responsibilities of each party in the action. On appeal from the order of foreclosure, the parties may challenge the court's decision to grant the decree of foreclosure.

*CitiMortgage, Inc. v. Roznowski*, 139 Ohio St.3d 299, 2014-Ohio-1984, ¶ 39.

{¶ 10} Mr. Young has appealed from the trial court's decision and entry of June 13, 2016. However, the entry merely overruled his motion for summary judgment and sustained the Treasurer's motion for summary judgment. It did not order the sale of the property and was silent as to the extent of any lienholder's interest or their priorities. In fact, the trial court expressly stated in the entry that the rights of all parties had not yet been adjudicated and, for that reason, it refused to sign the proposed judgment submitted by the Treasurer. Under *Roznowski*, this does not qualify as a final appealable order and we therefore lack jurisdiction over this appeal. Accordingly, this appeal is dismissed and the Treasurer's motion to dismiss the appeal on the grounds of Mr. Young's alleged lack of standing is overruled as moot.

*Motion overruled as moot; appeal dismissed.*

KLATT, LUPER SCHUSTER and HORTON, JJ.

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