

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

Township of Foster :  
 :  
 v. : No. 1018 C.D. 2010  
 : Argued: December 6, 2010  
Dennis Hewes, :  
 :  
 Appellant :

**BEFORE: HONORABLE BERNARD L. McGINLEY, Judge**  
**HONORABLE P. KEVIN BROBSON, Judge**  
**HONORABLE KEITH B. QUIGLEY, Senior Judge**

**OPINION NOT REPORTED**

**MEMORANDUM OPINION BY  
SENIOR JUDGE QUIGLEY**

**FILED: January 6, 2011**

Dennis Hewes appeals from the April 28, 2010 order of the Court of Common Pleas of Schuylkill County (trial court), in which the trial court: (1) found that the Township of Foster (Township) satisfied all conditions for the appointment of the Township as the conservator of certain property under the Abandoned and Blighted Property Conservatorship Act (Act);<sup>1</sup> (2) confirmed the Township’s final plan for abatement of the conditions that caused its appointment as a conservator; and (3) retained jurisdiction “pending . . . the final sale and

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<sup>1</sup> Act of November 26, 2008, P.L. 1672, 68 P.S. §§1101-1111. The effective date of the Act was February 24, 2009. Section 5(d) of the Act sets forth the conditions for the appointment of a conservator of property. 68 P.S. §1105(d).

demolition of the structure. . . .”<sup>2</sup> (Trial Ct.’s 4/28/10 Order at 3.) We affirm based on our conclusion that Hewes waived appellate review of the trial court’s holding that he lacked standing.

This case involves the Township’s attempts over a period of years to deal with the property at 78 Hill Road, which contains an old mansion and outbuildings. In December 2006, the Township filed a complaint against Hewes seeking injunctive relief with respect to dangerous conditions on the property. Numerous hearings ensued, with the court affording Hewes opportunities to correct the property’s defects and having to hold him in contempt of court.

In September 2009, the Township filed a petition pursuant to the Act requesting that the trial court appoint a conservator with full powers and duties to take possession and control of the property and set a hearing on the conservator’s final plan for abatement. The Township also filed a notice of *lis pendens* under section 4(c) of the Act, 68 P.S. §1104(c), so that any party taking an interest in the real estate would take such an interest subject to the pending action.

At the November 9, 2009 hearing on the Township’s petition, Hewes represented to the trial court that he sold the property, and the trial court advised Hewes to discuss the matter with the Township. (R.R. at 357a.) Based on the evidence presented at the hearing, the trial court appointed the Township as

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<sup>2</sup> This case is an interlocutory appeal as of right under Rule 311(a)(2) of the Pennsylvania Rules of Appellate Procedure because it involves “[a]n order confirming . . . an attachment, custodianship, receivership or similar matter affecting the possession or control of property. . . .”

conservator, accepting as credible the testimony of various witnesses as to the viability of structures on the premises and finding that the Township satisfied the conditions for the appointment of a conservator set forth in Section 5(d) of the Act, 68 P.S. §1105(d).

On April 15, 2010, the trial court held a hearing on the Township's final plan for abatement. At the beginning of the hearing, the Township introduced Daryl Learned as the new owner of the property. (R.R. at 364a.) Hewes was present at the hearing, and, although he admitted that he no longer owned the property, he attempted to present evidence. (R.R. at 433a.) The Township raised an objection, and the trial court ruled that Hewes lacked standing to challenge the conservatorship. (R.R. at 433a.) Hewes later attempted to introduce evidence to show that he still had an interest in the property, but the trial court rejected the evidence as hearsay. (R.R. at 438a-40a.) Based on the evidence presented at the hearing, including testimony presented by the new owner, the trial court issued the April 28, 2010 order confirming the final plan.

Hewes appealed to this court.<sup>3</sup> The trial court issued a Rule 1925(a) opinion, explaining that Hewes had no standing to challenge the conservatorship. (R.R. at 78a-79a.) With respect to the evidence that Hewes attempted to introduce at the April hearing, the trial court noted as follows:

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<sup>3</sup> We note that Learned also filed an appeal at No. 1093 C.D. 2010; however, this court quashed the appeal as untimely. Subsequently, this court denied an application to substitute Learned for Hewes as a party in this appeal, construing the application as an impermissible attempt to reinstate his untimely appeal.

It appears from his Statement of Matters Complained of on Appeal that he is alleging that the document in question was some sort of lien document or mortgage by which he surreptitiously attempted to retain an interest in the property, while informing the Court in November 2009 that he had sold the property to Mr. Learned and had made no mention of any such retained interest. The Court looks upon this as a duplicitous attempt to deceive the Court. It appears that Mr. Hewes is now arguing that his conveyance of the property in November of 2009 to Mr. Learned was a sham transaction designed to deceive the Court. The state of the record, however, is that Mr. Learned is the owner of the premises and not Mr. Hewes  
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(Trial Ct. Op. at 5, R.R. at 82.)

On August 26, 2010, the Township filed with this court a motion to quash the appeal, asserting that Hewes lacked standing because he no longer owned the property and had no interest of record at the time of the appeal. This court was “constrained” to deny the motion because, in his concise statement of matters complained of on appeal, Hewes challenged the trial court’s exclusion of evidence regarding his alleged interest in the property, thus preserving the issue of standing for appellate review. (*See* 9/23/10 Order.)

However, in his brief to this Court, Hewes presents only one issue: whether the trial court’s finding that the conditions of the Act were satisfied is supported by substantial evidence. (Hewes’ Brief at 1, Statement of Questions Involved.) Moreover, Hewes does not argue anywhere in his brief that the trial court erred in excluding evidence regarding his alleged interest in the property or that the trial court erred in concluding that he lacked standing. Thus, Hewes has

waived his right to appellate review of the trial court's holding that he lacked standing to challenge the conservatorship. *See* Pa. R.A.P. 2116(a) (stating that “[n]o question will be considered unless it is stated in the statement of questions involved or is fairly suggested thereby”); *see also* Pa. R.A.P. 2119(a) (stating that the argument portion of a brief shall contain as many parts as there are questions to be argued, followed by such discussion and citation of authorities as are deemed pertinent).

Because Hewes waived appellate review of the trial court's holding that Hewes lacked standing, we affirm.

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**KEITH B. QUIGLEY**, Senior Judge

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

Township of Foster	:	
	:	
v.	:	No. 1018 C.D. 2010
	:	
Dennis Hewes,	:	
Appellant	:	

**ORDER**

AND NOW, this 6<sup>th</sup> day of January, 2011, the order of the Court of Common Pleas of Schuylkill County, dated April 28, 2010, is hereby AFFIRMED.

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**KEITH B. QUIGLEY, Senior Judge**