

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: Dauphin County  
Tax Claim Sale of 2001

Appeal of: Camp Hill Development  
Co., Inc.

:  
:  
:  
:  
:  
:

No. 493 C.D. 2009  
Argued: December 8, 2009

BEFORE: HONORABLE JOHNNY J. BUTLER, Judge  
HONORABLE JAMES R. KELLEY, Senior Judge  
HONORABLE KEITH B. QUIGLEY, Senior Judge

*OPINION NOT REPORTED*

MEMORANDUM OPINION  
BY SENIOR JUDGE QUIGLEY

FILED: January 25, 2010

Camp Hill Development Co., Inc. (CHDC) appeals from the February 23, 2009 Order of the Court of Common Pleas of Dauphin County (Trial Court), which denied CHDC's Motion for Leave to File Objections and Exceptions *Nunc Pro Tunc* (Motion) to the tax sale of the real property at Riverview Terrace, Lot 41, Dauphin County (Property) because CHDC filed the Motion more than thirty days after CHDC gained actual knowledge of the sale. We affirm.

CDHC failed to pay taxes on the Property, and, as a result, on September 28, 2001, the Property was sold at a tax sale to Richard and Beth Radabaugh (Radabaughs). On October 11, 2001, the Trial Court issued a Confirmation *Nisi* of the tax sale. No objections were filed within thirty days. The Dauphin County Tax Claim Bureau (Bureau) then conveyed the Property to the Radabaughs by Bureau deed dated November 26, 2001.

Four years later, the Radabaughs sold the Property to Matthew DeMartino and Joanne C. Nunn (DeMartinos). Prior to the October 13, 2005 closing, counsel for the DeMartinos (Ms. Beckley) spoke with counsel for CHDC (Mr. Ernico) and informed him that the Property had been sold to the Radabaughs at the tax sale. Ms. Beckley followed the conversation with correspondence. CHDC admits that it gained actual knowledge of the tax sale as early as April 2006.

CHDC filed its Motion with the Trial Court on July 24, 2006, three months after gaining actual knowledge of the tax sale. In the Motion, CHDC alleged that it had received none of the required notices from the Bureau because it had moved from its address at 2505 North Front Street in Harrisburg. (Motion, ¶5, R.R. at 3a.)

The Radabaughs filed an answer to the Motion, alleging that, as of August 29, 2006, the Department of State listed 2505 North Front Street as the office address for CHDC. In new matter, the Radabaughs alleged that Ms. Beckley had provided CHDC with actual notice of the tax sale prior to the October 13, 2005 closing. (Answer, ¶43, R.R. at 40a.) In response, CHDC denied that it had actual notice prior to April 2006. (R.R. at 77a.) After considering the matter, the Trial Court denied the Motion. CHDC now appeals to this Court.<sup>1</sup>

CHDC argues that the Trial Court erred in failing to grant CHDC's Motion under Section 607(b.1) of the Law. Section 607(b.1) of the Law provides, in pertinent part, as follows:

---

<sup>1</sup> The scope of review in tax sale cases is limited to determining whether the Trial Court abused its discretion, erred as a matter of law or rendered a decision with a lack of supporting evidence. *Wells Fargo Bank of Minnesota, NA v. Tax Claim Bureau of Monroe County*, 817 A.2d 1196 (Pa.Cmwlth.2003).

If the mailed or published notice required under this section is defective or was served in an untimely manner, the court shall enter an order *Nunc Pro Tunc* for **cause** and, upon proof of **prejudice**, shall grant the owner leave to file objections and exceptions.

72 P.S. §5860.607(b.1) (emphasis added). CHDC contends that it stated a prima facie case that the required notice was defective, thereby establishing “cause” and that it established “prejudice” through the sale of the Property by the Radabaughs to the DeMartinis.

However, the Trial Court denied CHDC’s Motion pursuant to Section 607(c) of the Law, which states:

In case no objections or exceptions are filed to any such sale within thirty (30) days after the court has made a Confirmation *nisi*, a decree of absolute confirmation shall be entered as of course by the prothonotary.

72 P.S. §5860.607(c). The Trial Court reasoned that, in the usual case, objections or exceptions must be filed within thirty days of the Confirmation *Nisi*, and although section 607(b.1) does not set a thirty-day period for filing objections or exceptions *nunc pro tunc* after actual notice of a tax sale, it would be absurd to interpret Section 607(b.1) of the Law to allow a person with notice of a tax sale an indefinite period of time for requesting *nunc pro tunc* relief.<sup>2</sup> Indeed, if the Trial Court had given CHDC more than thirty days from April 2006 to file its objections and exceptions, then CHDC would have been in a better position than a person who, unlike CHDC, received notice of the tax sale and Confirmation *Nisi*.

---

<sup>2</sup> See Section 1922(a) of the Statutory Construction Act of 1972, 1 Pa. C.S. §1922(1) (stating that in ascertaining the intent of the General Assembly, we presume that it does not intend a result that is absurd); see also Section 1932(a) of the Statutory Construction Act of 1972, 1 Pa. C.S. §1932(a) (stating that statutes, or parts of statutes, are *in pari materia* if they relate to the same thing, and statutes *in pari materia* shall be construed together, if possible, as one statute).

Accordingly, we affirm.

---

KEITH B. QUIGLEY, Senior Judge

Judge Butler dissents.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: Dauphin County  
Tax Claim Sale of 2001

Appeal of: Camp Hill Development  
Co., Inc.

:  
:  
:  
:  
:  
:

No. 493 C.D. 2009

***ORDER***

AND NOW, this 25th day of January, 2010, the Order of the Court of Common Pleas of Dauphin County, dated the February 23, 2009, is hereby affirmed.

---

KEITH B. QUIGLEY, Senior Judge