

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Cathy S. Holler,

Appellant

v.

Beaver County-Tax  
Claim Bureau

:  
:  
:  
:  
:  
:  
:  
:  
:  
:

No. 523 C.D. 2010  
Submitted: October 15, 2010

BEFORE: HONORABLE DAN PELLEGRINI, Judge  
HONORABLE P. KEVIN BROBSON, Judge  
HONORABLE JIM FLAHERTY, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION  
BY SENIOR JUDGE FLAHERTY

FILED: December 10, 2010

Cathy S. Holler (Appellant) appeals from the March 3, 2010 order of the Court of Common Pleas of Beaver County (trial court) which denied Appellant’s request to set aside the December 8, 2008 judicial sale of property located at 575 Merchant Street in Ambridge (Property) and dismissed Appellant’s appeal. We affirm.

The Property was initially owned by Appellant’s brother, John S. Markvan from November 15, 1998 until it was sold at an upset sale on September 10, 2001 to Mark Gaudino (Gaudino). Appellant, on October 17, 2001, filed a petition to set aside the sale, therein alleging that she was a “partial owner” of the Property, that the Beaver County Tax Claim Bureau (Bureau) failed to comply with the notice and posting provisions of the Real

Estate Tax Sale Law (Law),<sup>1</sup> that the fair market value of the Property was \$50,000.00 and that she could pay all the taxes and costs necessary to redeem the Property from the sale. The trial court denied Appellant's petition to set aside the Bureau's sale of the Property. Appellant appealed to this court and we affirmed the trial court. In Re: Consolidated Return of the Tax Claim Bureau of the County of Beaver from the September 10, 2001 Upset Sale for Delinquent Taxes, Appeal of: Cathy Holler, (No. 1643 C.D. 2006, Pa. Cmwlth., filed April 25, 2007). Thus, the deed to the Property was recorded in Gaudino's name.

Subsequently, on December 8, 2008, the Property was sold at a judicial sale to Timofey Pinkevich. Such deed was recorded and the Property is currently in the name of Timofey Pinkevich (Pinkevich).

On January 5, 2010, Appellant petitioned the trial court to set aside the judicial sale that took place on December 8, 2008. The Bureau requested the matter be dismissed because Appellant does not have standing, as she is not an owner of the Property.

The trial court determined that Appellant's petition to set aside the upset sale of September 10, 2001 was denied by the trial court on May 4, 2001, and affirmed by this court on April 25, 2007. Further, the trial court determined that Appellant does not own the Property and does not have standing, that Appellant's allegations are the same allegations that she had presented and that had been decided in Appellant's prior appeal, and that as of December 11, 2008, the Property has been owned by Pinkevich who has paid all the real estate taxes to date. The trial court denied Appellant's

---

<sup>1</sup> Act of July 7, 1947, P.L. 1368, as amended, 72 P.S. §§5860.101-5860.803.

petition to set aside the judicial sale and granted the Bureau's motion to dismiss. Appellant now appeals to this court.

On appeal, Appellant contends that the trial court erred in determining that she was not a party in interest, thus not having standing to challenge the judicial sale, that it abused its discretion in dismissing the civil tax action when it knew Appellant had standing, that the December 2008 judicial sale did not comply with the Law, that the judicial sale is void and the trial court had no jurisdiction over the sale when the sale and relevant preceding sales were not conducted in compliance with the laws and regulations. Additionally, Appellant argues that she was denied a hearing at which time the disputed public records and other disputed tax claims, statutory irregularities and mix-ups in connection with the Property and other properties not at issue here, could be contested, reviewed and adjudicated by the court on a factual record, that she was denied statutory and constitutionally adequate notice when she was not notified or provided a reasonable opportunity to respond to the rule entered against her June 19, 2008, and that the trial court erred in maintaining that it was not served with Appellant's request to set aside the judicial sale.

We agree with the trial court that Appellant does not have standing as a party in interest to challenge the judicial sale because Appellant is not a record owner of the Property. This issue has been addressed by the trial court and this court previously and will not be addressed further here. See, In Re: consolidated Return of the Tax Claim Bureau of the County of Beaver From The September 10, 2001 Upset Sale For Delinquent Taxes, Appeal of: Cathy Holler, (No. 1643 C.D. 2006, Pa.

Cmwlth., filed April 25, 2007). Appellant does not have standing, thus the trial court properly granted the Board's motion to dismiss.

Accordingly, we must affirm the decision of the trial court.

---

JIM FLAHERTY, Senior Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Cathy S. Holler,

Appellant

v.

Beaver County-Tax  
Claim Bureau

:  
:  
:  
:  
:  
:  
:  
:  
:

No. 523 C.D. 2010

**ORDER**

AND NOW, this 10<sup>th</sup> day of December, 2010 the order of the Court of Common Pleas of Beaver County in the above-captioned matter is affirmed. We further deny Cathy S. Holler's motion for extension of time to file a reply brief.

---

JIM FLAHERTY, Senior Judge