

STATE OF MICHIGAN
COURT OF APPEALS

LAWRENCE J. STOCKLER,

Plaintiff-Appellant/
Cross Appellee,

v

STATE OF MICHIGAN and DEPARTMENT
OF TREASURY,

Defendants-Appellees
Cross Appellants.

UNPUBLISHED
June 20, 1997

No. 184081
Court of Claims
LC No. 93-015197

LAWRENCE J. STOCKLER and ROSEMARIE
MCLELLAN,

Plaintiffs-Appellants,

v

CITY OF DETROIT,

Defendant-Appellee.

No. 185161
Wayne Circuit Court
LC No. 95-507972-AV

Before: Smolenski, P.J., and Kelly and Gribbs, JJ.

PER CURIAM.

In this consolidated matter, plaintiffs appeal by leave granted the dismissal of their claims against defendant City of Detroit, and appeal by right from the dismissal of plaintiff Lawrence J. Stockler's (plaintiff's) claim against defendant State of Michigan. We affirm.

Plaintiff argues on appeal that the district and circuit courts erred in determining that the State was not required to give notice to "judgment lienholders such as plaintiff". We find that summary

disposition was properly granted as to both defendants in this case because plaintiff did not have a valid judgment lien against the subject property during the time the State was required to provide notice. MCL 211.131e; MSA 7.190(3). Even assuming that a valid judgment lien is a significant property interest which would entitle a lienholder to notice, *Verba v Ohio Casualty Ins Co*, 851 F2d 811, 816-817 (CA 6 1988), in this case plaintiff did not have a valid judgment after his judgment was set aside by this Court on June 19, 1984. *Law Offices v Semaan*, 135 Mich App 545, 551; 355 NW2d 271 (1984).

Although the existence of a valid judgment standing alone does not give a plaintiff any interest in the debtor's property, *George v Gleman*, 201 Mich App 474, 477; 506 NW2d 583 (1993), a judgment is a necessary prerequisite to obtaining a valid writ of execution and judgment lien against realty. See MCL 600.6001, 600.6002, 600.6004; MSA 27A.6001, 27A.6002, 27A.6004. Here, plaintiff's original judgment was set aside and his new judgment was not entered until September 25, 1984, after the redemption date of May 1, 1984. Even after obtaining a new judgment, plaintiff never sought a new writ of execution or notice of levy based upon the new judgment and did not obtain a quitclaim deed to the property until June 15, 1990, long after the property had been destroyed by fire and demolished by the city. Without a writ of execution and notice of levy, plaintiff did not have a valid lien against the property and was not entitled to notice. *Id.*

There is no merit to plaintiff's claim that the erroneous issue of a certificate of error, purportedly on the basis of bankruptcy, should be construed as an admission that the original tax foreclosure was invalid. There is no evidence that the land at issue was the subject of bankruptcy proceedings, and there was no legitimate statutory basis for the certificate's issuance. Since the certificate of error was issued without legal authority, it could not convey title. Compare *State Hwy Comm'r v Simmons*, 353 Mich 432, 440; 91 NW2d 819 (1958).

There is no merit to plaintiff's claim that the district court erred in granting summary disposition to defendant City of Detroit because defendant City had not filed a motion for summary disposition. As the trial court noted, defendant City joined in defendant State of Michigan's motion.

There is no merit to plaintiff's claim that the circuit court improperly considered issues of equity in addition to plaintiff's legal arguments. The circuit court correctly determined that plaintiff had no rights under the statute and then determined that he had no equitable title to the property.

Finally, the circuit court did not err in finding that plaintiff had done nothing to obtain title to the subject property prior to its destruction by fire and demolition. Plaintiff did record a writ of execution and levy against the property when he obtained the original default. However, when the original default judgment was set aside, plaintiff never obtained a new writ of execution based on the new judgment and so did not have a valid lien interest in the property after June 1984. Although plaintiff had a receiver appointed over the property, the receiver was not appointed until after the redemption period had run and the State obtained absolute title to the property. After

learning of the tax sale and the City's assertion of title to the property, plaintiff made no attempt to redeem the property for the taxes owed. We find no error in the circuit court's findings.

Affirmed.

/s/ Michael J. Smolenski

/s/ Roman S. Gibbs

I concur in result only.

/s/ Michael J. Kelly