

Circuit Court for Anne Arundel County
Case No. C-02-CV-15-003448

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1201

September Term, 2016

CHARLES E. MCMANUS, III

v.

HARBORSIDE PROPERTIES, LLC, ET AL.

Woodward, C.J.,
Leahy,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: November 7, 2017

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

On June 3, 2014, Woods Cove III, LLC (“Woods Cove”), the predecessor in interest to Harborside Properties, LLC (“Harborside” or appellee), purchased a residential property at 6837 Baltimore-Annapolis Boulevard, North Linthicum, Maryland (“the property”) at a tax sale for \$125,416.50.¹ On November 3, 2015, appellee filed a complaint to foreclose the right of redemption against the previous listed property owner, Charles E. McManus, III, appellant, in the Circuit Court for Anne Arundel County. After failing six times to effectuate personal service on McManus, appellee filed a motion for alternative service on March 31, 2016, which the court granted.² Accordingly, the order required notice to be posted at the courthouse, published in a newspaper, and mailed to McManus at the property address. On July 22, 2016, having never received an answer or any communication from McManus, the court entered judgment in favor of appellee and foreclosed the right of redemption.

McManus noted a timely appeal and contends that the order for alternative service was not justified. Furthermore, he maintains that he was never properly served. Additionally, he argues that it was improper for the court to enter the judgment foreclosing

¹ See generally Maryland Code (1985, 2012 Repl. Vol.), Tax-Property (“TP”), § 14-801 *et seq.* Appellee paid \$8,708.20 as a deposit, which was the amount of unpaid taxes on the property. The certificate of tax sale stated that the property could be redeemed, pursuant to TP § 14-828, for the amount of unpaid taxes plus interest at the rate of 18% per annum from the date of payment to the date of redemption.

² It should be noted, however, that a review of the record indicates that a copy of the complaint and summons was posted at the property address, and McManus indicated that he resided at the property.

the right of redemption while a status hearing was pending.³ Appellee maintains that it properly served McManus by complying with the order for alternative service. Additionally, appellee contends that we should deny McManus’s requested relief because he has failed to pay the deficient real property taxes. We agree and affirm. We explain.

The Court of Appeals held in *Quillens v. Moore*, 399 Md. 97, 124-25 (2007), that a deficient taxpayer must pay the taxes owed in order to appeal a tax sale. The Court explained that without this condition precedent, ““a delinquent taxpayer can find a way to overturn a tax sale without paying the delinquent taxes, [and] the delinquent taxpayer will never redeem. It is for this reason that the general rule is that in order to challenge a tax sale, the payment of taxes in arrears is a condition precedent.”” *Id.* at 124 (quoting *Canaj, Inc. v. Baker & Div. Phase III, LLC*, 391 Md. 374, 385 n.6 (2006)).⁴

McManus has not disputed that taxes are owed. It is also undisputed that he has not paid the deficient taxes. Nowhere in his brief or reply brief does he state that he even so much as attempted to pay the amounts owed to redeem the property. Accordingly, his non-payment of the deficient taxes serves to bar his appeal.

He attempts to distinguish his case by arguing that he was never properly served. The record indicates, however, that he was properly served and was on notice of the pendency of the action. Section 14-839 of the Tax Property Article governs notice to

³ The record reveals that an initial status hearing, scheduled for July 18, 2016, was postponed at the request of counsel for appellee because of a family obligation.

⁴ The Court of Appeals stated that the deficient taxpayer could pay the taxes and other amounts due ““either prior to the challenge or simultaneously with it[.]”” *Quillens*, 399 Md. at 125 (quoting *Canaj*, 391 Md. at 385 n.6).

defendants concerning the right of redemption. Subsection (a)(3) of the statute provides that once the complaint is filed, “the court shall issue a summons to procure the answer and appearance of all the defendants as in other civil actions.” The statute also states, however, that “[n]otice to a defendant may be made in any other manner that results in actual notice of the pendency of the action to the defendant.” TP § 14-839(a)(5). Furthermore, TP § 14-839(b) provides that the notice provisions “coupled with the order of publication and the other publicity and notices as ordinarily accompanies the sale of such property, as well as the knowledge of the taxes . . . is declared: (1) to be reasonable and sufficient . . .; and (2) to supersede any other requirement in other cases or civil causes generally.” The Court of Appeals has previously determined that the notice provisions of TP § 14-839 are constitutional. *See Canaj*, 391 Md. at 425-26.⁵

In this case, appellee demonstrated that personal service had been attempted six times without success. Appellee met the posting and publication requirements of the Tax Property Article, and appellee complied with the order for alternative service. As noted, the record also indicates that a copy of the complaint and summons was posted at the property address.⁶ Indeed, McManus does not dispute that notice was posted on the

⁵ *See also Voltolina v. Prop. Homes, LLC*, 198 Md. App. 590, 609 & n.19 (2011) (discussing notice provisions in redemption cases and observing that “the notice provisions of the statute are constitutional whether actual service is made, so long as substantial adherence to the statute’s requirements are met” (quoting *St. George Antiochian Orthodox Christian Church v. Aggarwal*, 83 Md. App. 599, 612 (1990), *rev’d on other grounds*, 326 Md. 90 (1992))).

⁶ At no point does McManus argue that the property address was a bad address for him, and he noted that he was at the home at various times during the pendency of this proceeding.

courthouse door, and that notice was published in a newspaper. He, however, argues that appellee did not mail notice to him because he never received it. Additionally, he contends that appellee failed to comply with the order for alternative service because appellee never attempted to contact his relatives. The record, however, reveals that appellee mailed notice and complied with the court's order. Furthermore, it appears that McManus was aware of the proceedings: he stated that he received notice of the rescheduling of the status hearing. As such, appellee met the notice provisions of TP § 14-839. McManus's appeal is, therefore, foreclosed, pursuant to *Quillens*, because of his failure to pay the delinquent taxes.

**JUDGMENT OF THE CIRCUIT COURT
FOR ANNE ARUNDEL COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**