SUPREME COURT OF ARKANSAS

Citifinancial Mortgage Co., Inc. v. Matthews, 372 Ark. 167

271 S.W.3d 501 (2008) · No. No. 07-431 · Decided January 17, 2008

SUMMARY

The Supreme Court of Arkansas affirmed summary judgment for the purchasers of tax-delinquent property. The court held that the mortgagee received legally sufficient notice of the negotiated sale, even though it was not separately notified by certified mail of an earlier public sale that did not occur, and that no due-process violation resulted.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Paul E. Danielson
JURISDICTION	Arkansas
DECIDED	January 17, 2008
DOCKET	No. 07-431
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order granting Jack and Sue McClain's motion for summary judgment in an action seeking to set aside a negotiated tax sale and alleging a due-process violation.
STANDARD OF REVIEW	Summary judgment is appropriate only when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. On appeal, the court determines whether the evidentiary items leave a material fact unanswered, viewing the evidence in the light most favorable to the nonmoving party and resolving doubts and inferences against the moving party.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential
PARTIES	Citifinancial Mortgage Co., Inc. v. Kenneth Matthews, Desonia Pope Matthews, Jack D. McClain, Sue N. McClain, The Arkansas Commissioner of State Lands

TOPICS

tax liens · foreclosure · due process · statutory interpretation · appellate procedure

PRACTICE AREAS

real estate · tax law · constitutional law · statutory interpretation · appellate procedure

QUESTIONS PRESENTED

1. Whether the Commissioner's failure to send Citifinancial certified-mail notice of the previously scheduled public tax sale violated Arkansas Code Annotated section 26-37-301 and invalidated the later negotiated sale.
2. Whether the lack of certified-mail notice of the previously scheduled public sale deprived Citifinancial of due process when Citifinancial received actual notice of the negotiated sale that actually occurred.

HOLDINGS

1. The Commissioner's failure to send Citifinancial notice of the public sale did not violate section 26-37-301 or invalidate the negotiated sale because the statute requires notice of the sale that occurs, and Citifinancial received proper notice of the negotiated sale.
2. Citifinancial was not deprived of due process because it received actual notice of the only sale that occurred before the property interest was lost and had an opportunity to redeem or object.

KEY QUOTATIONS

> *"The sale made to the McClains was the only sale that actually took place in this case."* (506)

> *"We decline to hold that the notice statute was violated simply because Citifinancial chose not to act upon the timely notice it received."* (507)

FACTUAL BACKGROUND

The Matthews' Crittenden County property became tax-delinquent for the 1998 and 1999 tax years and was certified to the Arkansas Commissioner of State Lands. The property was publicly offered for sale on October 15, 2003, but no bids were made, after which the Commissioner arranged a negotiated sale. Before the negotiated sale to Jack and Sue McClain on May 27, 2004, the Commissioner sent Citifinancial, the mortgagee, notice of that sale; Citifinancial did not redeem the property or otherwise act. Citifinancial challenged the sale because it had not received certified-mail notice of the earlier public sale and asserted that the omission violated due process.

PROCEDURAL HISTORY

Citifinancial sued to set aside the negotiated sale of tax-delinquent property to the McClains, arguing that the Commissioner of State Lands failed to provide certified-mail notice of an earlier scheduled public sale. The circuit court denied Citifinancial's motions for summary judgment and granted the McClains' motion. Citifinancial appealed, and the Arkansas Court of Appeals certified the case to the Supreme Court of Arkansas, which accepted certification and affirmed.

DISPOSITION

affirmed

CASES CITED

- Benton County v. Overland Dev. Co., Inc., 371 Ark. 559, 268 S.W.3d 885 (2007)
- Tsann Kuen Enters. Co. v. Campbell, 355 Ark. 110, 129 S.W.3d 822 (2003)
- Jones v. Double "D" Props., Inc., 352 Ark. 39, 98 S.W.3d 405 (2003)
- Pyle v. Robertson, 313 Ark. 692, 858 S.W.2d 662 (1993)
- McMickle v. Griffin, 369 Ark. 318, 254 S.W.3d 729 (2007)
- National Home Centers, Inc. v. First Arkansas Valley Bank, 366 Ark. 522, 237 S.W.3d 60 (2006)
- Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 70 S. Ct. 652, 94 L. Ed. 865 (1950)
- Jones v. Flowers, 547 U.S. 220, 126 S. Ct. 1708, 164 L. Ed. 2d 415 (2006)
- Walker v. City of Hutchinson, 352 U.S. 112, 77 S. Ct. 200, 1 L. Ed. 2d 178 (1956)

INSTRUCTIONS FOR AN AI ASSISTANT