OHIO COURT OF APPEALS, NINTH JUDICIAL DISTRICT

Lorain Cty. Treasurer v. Bray

2025-Ohio-5688 · No. 24CA012151 · Decided December 22, 2025

SUMMARY

The Ninth District Court of Appeals of Ohio affirmed a Lorain County Court of Common Pleas judgment ordering a sheriff's sale of several parcels due to unpaid real estate taxes, assessments, charges, and penalties. The court held that the appellants forfeited challenges to the competency of the Treasurer's summary-judgment evidence by failing to raise them below and rejected the argument that the judgment was not final or violated due process as to a tenant defendant. The court characterized the tax foreclosure as an in rem proceeding and overruled both assignments of error.

CASE DETAILS

COURT	Ohio Court of Appeals, Ninth Judicial District
WRITING FOR THE COURT	Jennifer Hensal; Stevenson, P.J.; Carr, J.
JURISDICTION	Ohio Court of Appeals, Ninth Judicial District
DECIDED	December 22, 2025
DOCKET	24CA012151
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a Lorain County Court of Common Pleas judgment granting the Lorain County Treasurer summary judgment in a tax-foreclosure action and ordering a sheriff's sale of several parcels.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. Evidentiary objections and arguments not raised in the trial court are reviewed under forfeiture principles.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	David Bray, Michael Bray v. Lorain County Treasurer

TOPICS

tax liens · foreclosure · summary judgment · preservation of error · appellate procedure

PRACTICE AREAS

real estate · tax · civil procedure · appellate procedure · remedies

QUESTIONS PRESENTED

1. Whether the trial court properly granted summary judgment to the Treasurer despite the Brays' appellate challenges to the competency and sufficiency of the Treasurer's evidence.
2. Whether the trial court could grant summary judgment and order a sheriff's sale without separately seeking summary judgment against Michael Bray, and whether the judgment was final and comported with due process.

HOLDINGS

1. The Brays forfeited their appellate challenges to the competency and adequacy of the Treasurer's evidence because those arguments were not presented to the trial court. The Treasurer's affidavits and parcel records were also sufficient to meet its initial summary-judgment burden.
2. The judgment was final and did not violate Michael Bray's due-process rights. A tax foreclosure under R.C. 5721.18 is an in rem proceeding against the land, not a personal action against an owner or tenant; the trial court did not enter a personal judgment against Michael Bray, and the Brays did not establish noncompliance with the statutory foreclosure procedure.

KEY QUOTATIONS

> *"A tax foreclosure under Revised Code Section 5721.18 is an in rem proceeding that operates on the land itself."* (¶ 10)

> *"Under Section 5721.181, "no personal judgment shall be entered" in a tax foreclosure action"* (¶ 10)

FACTUAL BACKGROUND

The Treasurer sought foreclosure against seven parcels owned by David Bray, alleging $116,197.72 in unpaid taxes, assessments, charges, and penalties. The Treasurer submitted deputy-treasurer affidavits and parcel records stating the amounts owed, the parcels' tax-delinquent certifications, and the continued nonpayment. Michael Bray, a tenant of some parcels, answered after receiving leave to plead but did not oppose summary judgment; David Bray opposed the motion only on the ground that some taxes were incurred by a prior owner.

PROCEDURAL HISTORY

The Lorain County Treasurer filed a foreclosure complaint based on unpaid real-estate taxes, assessments, charges, and penalties. The trial court granted the Treasurer's motion for summary judgment after David Bray opposed it on a limited ground and Michael Bray filed no opposition, then ordered a sheriff's sale. David and Michael Bray appealed, and the Ninth District affirmed.

DISPOSITION

affirmed

CASES CITED

- Temple v. Wean United, Inc., 50 Ohio St. 2d 317, 327 (1977)

- Dresher v. Burt, 75 Ohio St. 3d 280, 292-293 (1996)
- Grafton v. Ohio Edison Co., 77 Ohio St. 3d 102, 105 (1996)
- JPMorgan Chase Bank, Natl. Assn. v. Burden, 2014-Ohio-2746, ¶ 12 (9th Dist.)
- Wivitowicz v. Eschtruth, 1996 WL 183111, *2 (9th Dist. Apr. 17, 1996)
- Wallner v. Thorne, 2010-Ohio-2146, ¶ 18 (9th Dist.)
- Scalise v. Johnston Invests., LLC, 2018-Ohio-3469, ¶ 6 (9th Dist.)
- Cornett v. Ray, 1986 WL 9709, *2 (12th Dist. Sept. 8, 1986)

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