SUPREME COURT OF ILLINOIS

Household Bank, FSB v. Lewis, 229 Ill. 2d 173

890 N.E.2d 934 (2008) · No. 104826 · Decided May 22, 2008

SUMMARY

The Illinois Supreme Court held that a circuit court may vacate a judicial foreclosure sale at the mortgagee's request when the mortgagor arranges an approved private sale after the statutory redemption period but before confirmation of the judicial sale. The court concluded that withdrawing the motion to confirm prevented the mandatory confirmation provisions of the Illinois Mortgage Foreclosure Law from becoming operative. It also held that the statute extinguishing the equitable right of redemption did not bar the mortgagee from permitting a belated redemption as a matter of grace.

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Justice Karmeier; Chief Justice Thomas; Justice Freeman; Justice Fitzgerald; Justice Kilbride; Justice Garman; Justice Burke
JURISDICTION	Illinois
DECIDED	May 22, 2008
DOCKET	104826
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Glenn-Tate appealed from the appellate court's reversal of a circuit court order vacating a judicial foreclosure sale. The Illinois Supreme Court granted leave to appeal.
STANDARD OF REVIEW	De novo review because resolution involved statutory construction and application of law to undisputed facts.
PRECEDENTIAL VALUE	published precedential opinion of the Illinois Supreme Court
PARTIES	Addie Glenn-Tate v. Greenwich Investors XVI, LLC

TOPICS

foreclosure · mortgages · statutory interpretation · default judgment · civil procedure

PRACTICE AREAS

real estate law | mortgage foreclosure | civil procedure | statutory interpretation | remedies

QUESTIONS PRESENTED

1. Whether the Illinois Mortgage Foreclosure Law permits a circuit court to vacate a judicial sale at the mortgagee's request after the statutory redemption period has expired but before the sale has been confirmed, when the mortgagor has arranged an approved private sale that satisfies the mortgage debt.
2. Whether withdrawal of the mortgagee's motion to confirm eliminated the statutory prerequisite for the confirmation process under 735 ILCS 5/15-1508(b).
3. Whether 735 ILCS 5/15-1605 bars a mortgagee from permitting a private sale or redemption after the statutory redemption period and judicial sale but before confirmation.

HOLDINGS

1. The confirmation provisions of 735 ILCS 5/15-1508(b) are triggered only when a motion requesting confirmation remains operative; when the mortgagee withdrew its motion before any action on it, the statutory confirmation process was not triggered and the circuit court was not required to confirm the sale.
2. A mortgagee may accept a private sale arranged by the mortgagor and permit redemption as a matter of grace after the statutory redemption period has expired and a judicial sale has occurred, provided the judicial sale has not yet been confirmed.
3. Section 15-1605 extinguishes the mortgagor's equitable right of redemption; it does not prohibit a mortgagee from voluntarily permitting a private sale or redemption before confirmation of the judicial sale.

KEY QUOTATIONS

> *"The exercise of discretion in applying section 15–1508(b) is necessary only when the requirements of that law have become operative."* (229 Ill. 2d at 179)

> *"The highest bid received by a sheriff at a judicial foreclosure sale is merely an irrevocable offer to purchase the property."* (229 Ill. 2d at 181)

> *"Household was therefore entitled to allow belated redemption of the subject property in this case rather than seek confirmation of the judicial sale."* (229 Ill. 2d at 185)

FACTUAL BACKGROUND

Jewel Lewis defaulted on a promissory note secured by a mortgage on her home, and Household Bank obtained a default foreclosure judgment. Greenwich Investors XVI, LLC was the high bidder at the ensuing judicial sale, but the bid was substantially less than the foreclosure judgment. Before confirmation, Lewis found a private buyer, Addie Glenn-Tate, who purchased the property for $67,945; Household accepted the proceeds as payment in full, withdrew its motion to confirm the judicial sale, and sought to vacate that sale.

PROCEDURAL HISTORY

Household Bank obtained a default foreclosure judgment against Jewel Lewis, and Greenwich Investors XVI, LLC became the high bidder at the resulting judicial sale. Before the sale was confirmed, Lewis arranged a private sale to Glenn-Tate for an amount sufficient to satisfy the mortgage debt; Household accepted the proceeds, withdrew its motion to confirm the judicial sale, and moved to vacate the sale. The circuit court vacated the sale, but the appellate court reversed and ordered confirmation. The Illinois Supreme Court reversed the appellate court and affirmed the circuit court.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The appellate court judgment was reversed and the circuit court judgment was affirmed. The circuit court's order vacating the judicial sale remained in effect; the opinion does not specify any additional remand instructions.

CASES CITED

- City of Champaign v. Torres, 214 Ill. 2d 234, 241 (2005)
- Citicorp Savings of Illinois v. First Chicago Trust Co. of Illinois, 269 Ill. App. 3d 293, 300 (1995)
- Fleet Mortgage Corp. v. Deale, 287 Ill. App. 3d 385, 388-89 (1997)
- Blancett v. Taylor, 6 Ill. 2d 434, 437 (1955)
- People v. American National Bank & Trust Co., 32 Ill. 2d 115, 120-21 (1965)
- Kahle v. John Deere Co., 104 Ill. 2d 302, 307-08 (1984)
- Jennings v. Dunphy, 174 Ill. 86, 90-91 (1898)
- Plaza Bank v. Kappel, 334 Ill. App. 3d 847, 852 (2002)
- Abbott v. Beebe, 226 Ill. 417, 420 (1907)
- Conover v. Musgrave, 68 Ill. 58, 62 (1873)
- Skach v. Sykora, 6 Ill. 2d 215, 224 (1955)
- Rodman v. Quick, 217 Ill. 162, 164 (1905)
- Country Mutual Insurance Co. v. Livorsi Marine, Inc., 222 Ill. 2d 303, 319 (2006)
- Madison Two Associates v. Pappas, 227 Ill. 2d 474, 495 (2008)
- People v. Lewis, 223 Ill. 2d 393, 402 (2006)
- Washington Mutual Bank, FA v. Boyd, 369 Ill. App. 3d 526, 530 (2006)
- First Illinois National Bank v. Hans, 143 Ill. App. 3d 1033, 1037 (1986)
- In re Application of the County Collector for Judgment & Order of Sale Against Land & Lots Returned Delinquent for Nonpayment of General Taxes for the Year 1996 & Prior Years, 318 Ill. App. 3d 641, 645 (2000)