COURT OF APPEALS OF GEORGIA

LRD, LLC v. State Bank & Trust Co.

326 Ga. App. 644 (Ga. Ct. App. 2014) · Decided March 28, 2014

SUMMARY

The Georgia Court of Appeals affirmed orders confirming foreclosure sales of two parcels purchased by LRD, LLC. The court held that appraisal evidence concerning the properties' values approximately five weeks before the sales was sufficiently close in time to support findings of true market value under OCGA § 44-14-161. The court also held that the trial court, as factfinder in a confirmation proceeding, had sufficient evidence to confirm the sales.

CASE DETAILS

COURT	Court of Appeals of Georgia
WRITING FOR THE COURT	Phipps, Chief Judge; Ellington, Presiding Judge; Branch, Judge
JURISDICTION	Georgia
DECIDED	March 28, 2014
DISPOSITION	affirmed
PROCEDURAL POSTURE	State Bank sought confirmation in superior court of foreclosure sales of two parcels of real property. After the superior court confirmed the sales, LRD and the guarantors appealed, arguing that the lender failed to prove the properties' true market values on the foreclosure-sale date.
STANDARD OF REVIEW	The trial court's findings in a foreclosure-confirmation proceeding have the effect of a jury verdict and will not be disturbed when supported by any evidence. The appellate court does not weigh the evidence or determine witness credibility and views the evidence in the light most favorable to the judgment.
PRECEDENTIAL VALUE	Published opinion of the Court of Appeals of Georgia; precedential within the court's jurisdiction.
PARTIES	LRD, LLC, Leo Owens, Ralph Barlow, Joseph Hession v. State Bank & Trust Company

TOPICS

foreclosure · real estate · commercial litigation · civil procedure

PRACTICE AREAS

real estate · foreclosure · commercial litigation · civil procedure

QUESTIONS PRESENTED

1. Whether the superior court could confirm the foreclosure sales when the lender's appraisal evidence established the parcels' values approximately five weeks before the sale dates rather than on the exact sale dates.
2. Whether the superior court's findings concerning the parcels' true market values were supported by sufficient evidence.

HOLDINGS

1. Evidence of a property's value at a time relatively close to the foreclosure sale may be considered to determine the property's true market value at the time of sale. An appraisal dated approximately five weeks before the sales was sufficiently close in time.
2. The superior court's findings were supported by some evidence and therefore could not be disturbed on appeal.

KEY QUOTATIONS

> *"What [the property] may have brought or what it may have been regarded as being worth on the market at times relatively close to the date of sale may be considered as aids in arriving at market value at the time of sale — which is what the court is charged with determining in granting or denying an order of confirmation."*
> (326 Ga. App. at 646)

> *"In this case, there was evidence of the parcels' value about five weeks before the foreclosure sales occurred."*
> (326 Ga. App. at 647)

FACTUAL BACKGROUND

State Bank foreclosed on two parcels securing loans to LRD, LLC, and related guarantors, purchasing Parcel 1 for $1,706,250 and Parcel 2 for $625,800. At the confirmation hearing, State Bank presented appraisal reports and testimony from a certified real estate appraiser valuing the parcels as of June 1, 2010, approximately five weeks before the July 6 foreclosure sales. The superior court confirmed the sales, finding that Parcel 1's true market value equaled its foreclosure price and that Parcel 2's true market value was $596,000, and there was no evidence of a chilled sale or fraud.

PROCEDURAL HISTORY

State Bank foreclosed on two parcels securing loans to LRD and obtained the highest bids at the sales. It then applied to the superior court for confirmation under OCGA § 44-14-161. The superior court confirmed both sales after hearing expert appraisal testimony, and the Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Eayrs v. Wells Fargo Bank, 311 Ga. App. 504, 505 (1) (716 S.E.2d 561) (2011)
- Thompson v. Maslia, 127 Ga. App. 758, 762 (2), 764 (4) (195 S.E.2d 238) (1972)
- Royal Crown Properties v. Regions Bank, 306 Ga. App. 568, 570-571 (1) & n.3 (703 S.E.2d 36) (2010)
- REF Dev. v. First Citizens Bank & Trust Co., 316 Ga. App. 391 (1) (729 S.E.2d 535) (2012)
- Smith v. Fidelity Fed. Sav. & Loan Ass'n, 149 Ga. App. 730, 731-732 (256 S.E.2d 43) (1979)
- La Ronde, Ltd. v. Amsouth Bank of Fla., 203 Ga. App. 400, 401 (1) (416 S.E.2d 881) (1992)
- Blue Marlin Dev. v. Branch Banking & Trust Co., 302 Ga. App. 120-121 (690 S.E.2d 252) (2010)
- Smith v. Great Southern Fed. Sav. Bank, 192 Ga. App. 386, 387 (3) (385 S.E.2d 1) (1989)
- Nash v. Compass Bank, 296 Ga. App. 874, 877 (b) (676 S.E.2d 28) (2009)