SUPREME COURT OF ILLINOIS

Wehrheim v. Smith

226 Ill. 346 (1907) · Decided February 21, 1907

SUMMARY

The Illinois Supreme Court held that a judgment creditor with a valid lien was a necessary party to a foreclosure proceeding if the foreclosure sought to affect the creditor's rights. Because the creditor's rights were established when the equity action was filed, the later dormancy of the judgment did not eliminate the creditor's right to redeem, and the lower court was directed to protect the lien through an appropriate decree.

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Justice Wieicin
JURISDICTION	Illinois
DECIDED	February 21, 1907
DISPOSITION	affirmed
PROCEDURAL POSTURE	Wehrheim appealed to the Illinois Supreme Court from an Appellate Court judgment reversing a circuit court decree that barred Smith's right to redeem from a foreclosure sale.
STANDARD OF REVIEW	Review of the correctness of the lower courts' foreclosure and redemption determinations; no separately stated standard of review.
PRECEDENTIAL VALUE	Published Illinois Supreme Court decision; precedential authority in Illinois.
PARTIES	Wehrheim v. Smith

TOPICS

foreclosure · mortgages · real estate · remedies · civil procedure

PRACTICE AREAS

real estate law · mortgage foreclosure · judgment liens · equity

QUESTIONS PRESENTED

1. Whether a judgment creditor with a lien on mortgaged property is a necessary party to a foreclosure proceeding if the foreclosing plaintiff seeks to affect the creditor's rights.
2. Whether a foreclosure sale and master's deed bind or extinguish the redemption rights of a judgment lienholder who was not joined in the foreclosure action.
3. Whether an equity court may determine and protect a judgment lienholder's redemption rights when the judgment lien expires after the bill is filed but before final decree.
4. Whether the circuit court erred by barring Smith's right to redeem.

HOLDINGS

1. The judgment became a lien on the property subject to Wehrheim's trust deed, extending to the difference between the property's value and the amount needed to discharge the balance secured by the trust deed.
2. A judgment lienholder is a necessary party to a foreclosure proceeding when the plaintiff seeks to affect the lienholder's rights or interest in the property.
3. A foreclosure decree and sale have no effect on the rights of a judgment lienholder who was not made a party to the foreclosure proceeding; the lienholder's rights remain as though the foreclosure had not occurred.
4. When an equity court acquires jurisdiction while the judgment is a valid lien, the parties' rights are fixed as of the filing of the bill, and the court may protect the lienholder's redemption rights even if the judgment becomes dormant before final decree.

KEY QUOTATIONS

> *"The appellant, however, did not see fit to make him a party defendant, and therefore the decree of foreclosure and sale had no force or effect whatever upon his rights, which remained the same as if that proceeding had never been had."*

> *"It is a well known rule that when a court of equity acquires jurisdiction for one purpose it acquires jurisdiction for all purposes, and will do full and complete justice between all the parties and determine all their rights."*

> *"The rights of the parties in this case were fixed and determined upon the date the bill was filed. The decree related back to the filing of the bill, and the rights of the parties should have been fixed as of that date."*

FACTUAL BACKGROUND

Meinshausen purchased the property from Wehrheim, giving a trust deed securing part of the purchase price. An earlier judgment against Meinshausen, later assigned to Smith, became a lien on the property subject to the trust deed. Wehrheim foreclosed without making Smith a party, purchased the property at the foreclosure sale, and received a master's deed. Smith's judgment remained in force when Wehrheim filed the present equity action, although it became dormant before the circuit court entered its decree; Smith later revived it before that decree.

PROCEDURAL HISTORY

Wehrheim foreclosed a purchase-money trust deed without joining Smith, an assignee of a judgment creditor's lien against the property. Smith later asserted a right to redeem, and the circuit court barred that right. The Appellate Court for the First District reversed and remanded with directions to permit redemption, and the Illinois Supreme Court affirmed the Appellate Court's judgment while modifying the required relief.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The circuit court must enter a decree against the property in favor of Smith for the amount of his judgment, interest, and costs; set a date by which the amount may be paid so the property is relieved from the lien; and provide that, upon nonpayment, the property be sold to satisfy the judgment, interest, costs, and sale costs, subject to the right of redemption.

CASES CITED

- Boynton v. Pierce, 151 Ill. 197
- Beadle v. Cole, 173 Ill. 136
- People v. Bowman, 181 Ill. 421
- Rodman v. Quick, 211 Ill. 546
- Morrison v. Morrison, 140 Ill. 560
- Pool v. Docker, 92 Ill. 501
- Keith v. Henkleman, 173 Ill. 137
- Longshore v. Longshore, 200 Ill. 470

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