

SUPREME COURT OF SOUTH DAKOTA

DJBAS Living Trust v. Meinhardt

2008 SD 84 · No. No. 24685-a-RWS · Decided August 13, 2008

SUMMARY

The Supreme Court of South Dakota affirmed the order vacating a sheriff's foreclosure sale and certificate of sale. The court held that the circuit court acted within its broad equitable discretion because the mortgagee's authorized bidder arrived late due to excusable circumstances and the property was sold for a grossly inadequate price.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Sabers, Justice; Gilbertson, Chief Justice; Konen kamp, Justice; Zinter, Justice; Meierhenry, Justice
JURISDICTION	South Dakota
DECIDED	August 13, 2008
DOCKET	No. 24685-a-RWS
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order vacating a sheriff's foreclosure sale and certificate of sale.
STANDARD OF REVIEW	Abuse of discretion. A circuit court has broad equitable powers to set aside a foreclosure sale when the equities require.
PRECEDENTIAL VALUE	Published South Dakota Supreme Court opinion; precedential.
PARTIES	DJBAS Living Trust v. South Dakota Housing Development Authority

TOPICS

- foreclosure
- real estate
- equitable relief
- remedies
- civil procedure

PRACTICE AREAS

- Real estate law
- Mortgage foreclosure
- Equitable remedies
- Civil procedure

QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by vacating the sheriff's sale and certificate of sale because the accepted price was inadequate and the mortgagee's representative's untimely arrival resulted from mistake, misapprehension, or inadvertence.
2. Whether fraud or unfairness is required before a foreclosure sale may be set aside.

HOLDINGS

1. A court may exercise its equitable discretion to vacate a foreclosure sale when the sale price is inadequate and the surrounding circumstances indicate mistake, misapprehension, or inadvertence by a party or interested bidder; mere inadequacy of consideration alone is insufficient.
2. Fraud is not a necessary prerequisite to vacating a foreclosure sale when inadequacy of price is accompanied by mistake, misapprehension, or inadvertence and the equities otherwise justify relief.
3. The circuit court did not abuse its discretion by vacating the sheriff's sale and certificate of sale.

KEY QUOTATIONS

“Therefore, if the circumstances surrounding the sale indicate mistake, misapprehension or inadvertence by a party or interested bidder and the sale failed to obtain a fair and adequate price for the property, the court may exercise its discretion and vacate the sale.” (¶ 11)

“Contrary to Trust's claim, fraud is not necessary in order to vacate the sale.” (¶ 11)

“Under these facts, we find no abuse of discretion.” (¶ 16)

FACTUAL BACKGROUND

Pamela and Jeremy Meinhardt defaulted on a mortgage loan that had been assigned to the South Dakota Housing Development Authority, which obtained a default foreclosure judgment for \$99,507.56 plus additional amounts. At the sheriff's sale, the mortgagee's authorized bidder arrived approximately three minutes late because of travel delays, courthouse construction, and a recent knee surgery. DJBAS Living Trust bid \$10,000, which was accepted, although the mortgagee had authorized a bid for nearly the full judgment amount. The circuit court vacated the sale and certificate of sale.

PROCEDURAL HISTORY

South Dakota Housing Development Authority obtained a default foreclosure judgment and scheduled a sheriff's sale. DJBAS Living Trust bid \$10,000 after the mortgagee's authorized representative arrived approximately three minutes late. The circuit court vacated the sale based on the inadequate price and the representative's excusable neglect. The Trust appealed, and the Supreme Court of South Dakota affirmed.

DISPOSITION

affirmed

CASES CITED

- Federal Land Bank of Omaha v. Fenske, 67 SD 236, 291 N.W. 596 (1940)
- Kirby v. Ramsey, 9 SD 197, 68 N.W. 328 (1896)
- State ex rel. White v. Brandt, 2008 SD 33, 748 N.W.2d 766 (2008)
- State ex rel. Kunz v. Campbell, 5 SD 636, 60 N.W. 32 (1894)
- Langeberg v. Perry, 62 SD 286, 252 N.W. 882 (1934)
- Stacy v. Smith, 9 SD 137, 68 N.W. 198 (1896)
- Johnson v. Jefferson Std. Life Ins. Co., 429 P.2d 474 (Ariz. Ct. App. 1967)

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