

OHIO COURT OF APPEALS, NINTH JUDICIAL DISTRICT

PNC Bank, National Association v. Maxwell

PNC Bank, Natl. Assn. v. Maxwell, 2012-Ohio-5399 (Ohio Ct. App. 2012) · No. C.A. No. 26357 · Decided November 21, 2012

SUMMARY

The Ohio Ninth District Court of Appeals held that an order confirming a foreclosure sale was a final order. Because the bank did not appeal the confirmation order or properly seek relief under Civil Rule 60(B), the trial court erred by vacating the confirmation and the sale. The appellate court reversed and remanded.

CASE DETAILS

COURT	Ohio Court of Appeals, Ninth Judicial District
WRITING FOR THE COURT	Dickinson; Clair E. Dickinson; Moore, P. J.; Belfance, J.
JURISDICTION	Ohio
DECIDED	November 21, 2012
DOCKET	C.A. No. 26357
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	A third-party purchaser at a foreclosure sale appealed the trial court's order vacating the order confirming the sale and vacating the sale itself.
STANDARD OF REVIEW	The appellate court reviewed whether the trial court properly vacated its final order confirming the foreclosure sale; the issue was decided as a matter of law.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Lewis Dawson L.L.C. v. PNC Bank, National Association

TOPICS

- foreclosure
- final judgment rule
- appellate jurisdiction
- appellate procedure
- civil procedure

PRACTICE AREAS

- foreclosure
- appellate procedure
- civil procedure
- real estate remedies

QUESTIONS PRESENTED

1. Whether a third-party purchaser at a confirmed foreclosure sale has standing to appeal an order vacating the confirmation of the sale.
2. Whether a trial court may sua sponte vacate its final order confirming a foreclosure sale.
3. Whether the trial court's March 6, 2012 order vacating the confirmation order and sheriff's sale was proper.

HOLDINGS

1. A third-party purchaser has standing to appeal an adverse order vacating a confirmed foreclosure sale because title passes to the purchaser upon confirmation.
2. Except in limited circumstances, a trial court may not sua sponte vacate its own final judgment or final order; after confirmation, the proper remedies were an appeal or a motion under Civil Rule 60(B).

KEY QUOTATIONS

“As a third-party purchaser, Lewis Dawson, has standing to appeal the adverse decision of the trial court vacating its order confirming the foreclosure sale.” (¶ 4)

“The trial court erred by sua sponte vacating its final order.” (¶ 6)

FACTUAL BACKGROUND

PNC Bank instituted a foreclosure action against Floyd Maxwell. Lewis Dawson L.L.C. purchased the property at a sheriff's sale on February 10, 2012. Although PNC had moved to vacate the sale, the trial court confirmed the sale on February 28 and ordered distribution of the proceeds. On March 6, the trial court vacated the confirmation order and the sale, explaining that the confirmation order had been entered inadvertently while PNC's motion was pending.

PROCEDURAL HISTORY

PNC Bank filed a foreclosure action in the Summit County Court of Common Pleas. Lewis Dawson purchased the property at a sheriff's sale, and the trial court subsequently confirmed the sale and ordered distribution of the proceeds. The trial court then vacated the confirmation order and purported to grant PNC's motion to vacate the sale. Lewis Dawson appealed, and the Ninth District reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Summit County Court of Common Pleas was directed to proceed consistently with the appellate opinion; the March 6, 2012 order vacating the confirmation order and sheriff's sale was reversed.

CASES CITED

- Ohio Sav. Bank v. Ambrose, 56 Ohio St. 3d 53, 55 (1990)
- Women's Fed. Sav. Bank v. Pappadakes, 38 Ohio St. 3d 143, 145 (1988)
- Emerson Tool L.L.C. v. Emerson Family Ltd. P'ship, 9th Dist. No. 24673, 2009-Ohio-6617, ¶ 13
- Cuyahoga Sav. Ass'n v. Kellar, 9th Dist. Nos. 3088-M, 3108-M, 2001 WL 358394, *2 (Apr. 11, 2001)
- Deutsche Bank Trust Co. v. Pearlman, 162 Ohio App. 3d 164, 2005-Ohio-3545, ¶¶ 13-15 (9th Dist.)
- Hudgins v. Mitchell, 128 Ohio App. 3d 403, 407 (9th Dist. 1998)

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