

Summary of SC92390, *Sneil LLC v. Tybe Learning Center Inc. and Regions Bank and Metropolitan St. Louis Sewer District*

Appeal from the St. Louis County circuit court, Judge Ellen Hannigan Ribaudo
Argued and submitted May 23, 2012; opinion issued July 3, 2012

Attorneys: Sneil was represented during arguments by Phillip K. Gebhardt of Gebhardt Real Estate and Legal Services LLC in Desoto, (636) 586-4545, and Stanley D. Schnaare of The Schnaare Law Firm PC in Hillsboro, (636) 789-3355; Tybe Learning Center was represented by Rufus J. Tate Jr. of The Tate Law Firm LLC in St. Louis, (314) 726-6495, and Anthony D. Gray of Johnson Gray LLC in St. Louis, (314) 385-9500; and Regions Bank was represented by Deborah J. Volmart of Hanna & Volmert LLC in Belleville, Ill., (618) 277-7670.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: An entity that purchased certain property in St. Louis County at a tax sale appeals a decision holding that it is not entitled to have title to the property nor to an order ejecting from the property the previous owner or its lender. In a 7-0 decision written by Judge Zel M. Fischer, the Supreme Court of Missouri affirms the circuit court's judgment, resolving a conflict among court of appeals opinions as to when a purchaser must send notice and what information such a notice must obtain under chapter 140, RSMo. One who purchases property at a first or second tax offering sale must send notice to the owner and any other affected parties at least 90 days prior to the one-year anniversary of the tax sale and must inform the interested parties of their right to redeem the property. The notice need not inform the owner of the procedures for redeeming the property or the time frame within which he must do so. If the purchaser chooses to provide notice of the date by which the owner must redeem the property, however, the purchaser must provide the correct date or risk violating the owner's due process rights. Because the purchaser here failed to meet the proper notice requirements, its notice was untimely and, pursuant to section 140.405, it lost all interest in the property. Further, the circuit court made sufficient findings of fact and conclusions of law in response to the purchaser's request for such findings pursuant to Rule 73.01, and in any event, the purchaser failed to preserve this issue for appeal.

Judge Jon Beetem, a circuit judge in the 19th Judicial Circuit (Cole County), sat in this case by special designation in place of Judge George W. Draper III.

Facts: Sneil LLC successfully bid on certain property in St. Louis County at a tax sale held by the St. Louis County collector of revenue on August 28, 2006. At the time of the sale, Tybe Learning Center Inc. owned the property and Regions Bank, as a successor to Union Planters Bank, held a recorded deed of trust on the property. Sneil sent a notice letter of the purchase to Tybe and Union Planters on August 27, 2007. The letter did not reflect the redemption period during which the two entities could redeem their interest in the property. Sneil had its deed to the property recorded in December 2007 and filed suit in February 2008 to quiet title and eject Tybe from the property. Sneil asked the court to make certain findings of fact and conclusions of law. The circuit court found the notice letter failed to meet the requirements of section 140.405,

RSMo, because it failed to inform Tybe and the bank of the redemption period. It found Sneil lost its interest in the property by providing insufficient notice and overruled its requests for relief as moot. Sneil appeals.

AFFIRMED.

Court en banc holds: (1) Section 140.340.1, RSMo, requires a one-year redemption period to follow a first tax sale during which an owner, occupier or interested party can redeem the property by paying the purchase price plus the cost of the sale and interest. Under section 140.290.1, RSMo, the purchaser gets a certificate of purchase, but legal title to the property does not transfer to the purchaser until after the redemption period expires. Section 140.405, RSMo, requires the purchaser to send notice to interested parties of their right to redeem at least 90 days before the date on which the purchaser is authorized to acquire the deed. Opinions of the court of appeals have conflicted, however, as to both when a purchaser must send notice and what information such a notice must obtain.

(2) In resolving this conflict, this Court reviews the differing statutory interpretations, considers the implications of essentially permitting the tax-sale purchaser to set the date for redemption by when he chooses to pursue a collector's deed, and determines that such an allowance would undermine the need for certainty in the law and place too much control in the hands of those who are not unbiased with regard to whether property owners could redeem their property successfully. Construing sections 140.340 and 140.405 in context of other nearby related statutes, the proper meaningful and harmonious interpretation of the right to redeem in section 140.405 is to give it the meaning consistent with that set forth in section 140.340 – that the property owner has one year from the date of the tax sale to redeem the real property. *Harpagon MO LLC v. Edward L. Bosch and Nancy Z. Bosch* – also decided this date – holds that notice must be sent at least 90 days prior to one year after the tax sale and that, as a matter of law, a purchaser's failure to provide proper notice results in a loss of all interest in the property. The date the purchaser delivers the tax sale certificate triggers the 90 day notice period. *Hobson v. Elmer*, 163 S.W.2d 1020 (Mo. 1942), did not reference notice – it was decided more than 40 years before the notice requirement of section 140.405 was enacted. To clarify: The purchaser must send notice at least 90 days prior to the one-year anniversary of the tax sale and must inform the interested parties of their right to redeem. The notice need not inform the owner of the procedures for redeeming the property or the time frame within which he must do so. If the purchaser chooses to provide notice of the date by which the owner must redeem the property, however, the purchaser must provide the correct date or risk violating the owner's due process rights.

(3) Because Sneil failed to meet all the requirements by failing to provide notice to Tybe and Regions 90 days before Sneil was authorized to acquire the deed, its notice was untimely. Therefore, pursuant to section 140.405, Sneil lost all interest in the property. To the extent that *United Asset Management Trust Co. v. Clark*, 332 S.W.3d 159 (Mo. App. 2010); *Drake Development & Construction LLC v. Jacob Holdings Inc.*, 306 S.W.3d 171 (Mo. App. 2010); *Hames v. Bellistri*, 300 S.W.3d 235 (Mo. App. 2009); *CedarBridge LLC v. Eason*, 239 S.W.3d 462 (Mo. App. 2009); *Keylien Corp. v. Johnson*, 284 S.W.3d 606 (Mo. App. 2009); and *Boston*

v. Williamson, 807 S.W.2d 216 (Mo. App. 1991), are to the contrary, they no longer should be followed.

(4) The circuit court made sufficient findings of fact and conclusions of law. Sneil timely made 46 requests for findings of fact and 60 requests for conclusions of law pursuant to Rule 73.01. Although the circuit court did not address each and every one of these requests, its failure to do so does not mandate reversal automatically. It made sufficient findings of fact and conclusions of law to permit this Court to conduct a meaningful review of the issues on appeal. Even had the findings been insufficient, Sneil waived any argument regarding them by failing to challenge them properly in a post-trial motion to amend the judgment.