

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

HARPAGON MO, LLC

Appellant

v.

EDWARD L. BOSCH AND NANCY Z. BOSCH, ET AL.

Respondents

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DOCKET NUMBER **WD72834**

DATE: August 30, 2011

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Appeal From:

Circuit Court of Clay County, MO  
The Honorable Larry Dale Harman, Judge

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Appellate Judges:

Division Two  
Thomas H. Newton, P.J., Cynthia L. Martin, and Gary D. Witt, JJ.

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Attorneys:

Scott F. Walterbach, Gladstone, MO    Counsel for Appellant

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Attorneys:

Robb A. Denney, Liberty, MO            Counsel for Respondents, Bosch  
Arnold R. Day, Jr., Kansas City, MO    Counsel for Unknown Defendants & Heirs, Respondents

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**MISSOURI APPELLATE COURT OPINION SUMMARY  
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

HARPAGON MO, LLC, Appellant, v. EDWARD L. BOSCH AND  
NANCY Z. BOSCH, ET AL., Respondents

**WD72834**

**Clay County**

Before Division Two Judges: Newton, P.J., Martin, and Witt, JJ.

Harpagon's predecessor, Sunrise, purchased the Bosches' property at a delinquent tax land sale and received a certificate of purchase on August 27, 2007. Sunrise sent notices of the right to redeem to the Bosches via certified mail on July 25, 2008. On October 31, 2008, Harpagon, as Sunrise's successor, presented the certificate of purchase to the county collector. On November 3, 2008, Harpagon received the collector's deed. Thereafter, Harpagon filed an action against the Bosches to quiet title to the property in its favor. The Bosches answered, alleging affirmative defenses and claiming Harpagon lost its interest when it failed to comply with the statutory notice prerequisites. Subsequently, both parties filed motions for summary judgment. After a hearing, the trial court granted the Bosches' motion and denied Harpagon's. Harpagon appeals.

**REVERSED AND REMANDED.**

**Division Two Holds:**

In its first point, Harpagon argues that the trial court erred in granting the Bosches' summary judgment because Harpagon's notice of redemption to the Bosches was timely and sufficient and the Bosches failed to exercise their right to redeem. Summary judgment is proper where the undisputed material facts show the movant is entitled to judgment as a matter of law. As a matter of law, a collector's deed becomes invalid if the purchaser fails to comply with the notice requirements of section 140.405. The law at the time required notices of the right to redeem property be sent within ninety days of the purchaser's application for a collector's deed and required the notice to inform the owners of the right to redeem. The undisputed material facts showed that these two requirements were satisfied. Consequently, summary judgment in the Bosches' favor was improper. Harpagon's first point is granted.

In its second point, Harpagon argues that its motion for summary judgment should have been granted because the Bosches failed to redeem the property after adequate notice. We do not grant the request because the Bosches raised affirmative defenses which Harpagon's motion did not address. Further proceedings are thereby required to dispose of the case. Harpagon's second point is denied.

Therefore, we reverse the summary judgment and remand the case to the trial court.

Opinion by Thomas H. Newton, Presiding Judge

August 30, 2011

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