



In the Twenty-Second Judicial Circuit Court City of St. Louis

In the Matter of Foreclosure of Liens for
Delinquent Land Taxes by Action in Rem
COLLECTOR OF REVENUE, CITY OF
ST. LOUIS, MISSOURI,

Respondents,

vs.

PARCELS OF LAND ENCUMBERED
WITH DELINQUENT TAX LIENS
LAND TAX SUIT NO. 188,

Respondents.

Cause No. [REDACTED]

Division 4

ORDER AND JUDGMENT

DM (“the Homeowner”) contests the confirmation of a tax sale involving real property identified as parcel [REDACTED] (“the Parcel”) offered for sale by the City of St. Louis Collector of Revenue and purchased by RW (“the Purchaser”).

The Parcel was offered up by the City of St. Louis Collector of Revenue for sale due to delinquent property taxes pursuant to section 92.700 RSMo 2000 et. seq. The City of St. Louis Sheriff’s Department conducted the sale, and the Parcel was sold to Purchaser for \$3,400. Purchaser then filed a motion to confirm tax sale pursuant to section 92.840, and a hearing was held on October 26, 2017 at which the Homeowner challenged the adequacy of the consideration paid by Purchaser and

the “opinion of value” of the Parcel. It is noted that the Homeowner also challenged the accuracy of the City Assessor’s account, but later admitted he was delinquent.

At the hearing, Purchaser presented testimony from an appraiser, TC. TC testified the reasonable value of the Parcel under forced tax sale conditions was \$3,000. TC based this value on a sales comparison approach, using other forced tax sale properties he considered comparable. However, TC admitted, on cross-examination, it was based on 2952 square footage and it was difficult to find similar homes in the same neighborhood as the Parcel. TC testified his valuation was only based on the exterior of the home. Based on his admitted Exhibit 1, the comparable sales he used were in 2009, 2013, and 2016. Finally, TC noted it was 2.5 story but mistakenly evaluated it as if it was two story.

The Homeowner presented testimony from Homeowner DM, and a second appraiser, MH, a current employee of the Assessor’s office. DM testified regarding the interior of the home and improvements the Homeowner had made, specifically the number of rooms, bathrooms, and that the home was two and half stories. DM also testified he had put \$70,000 in renovations. MH stated he consider a sales comparison based on 3,598 square footage and used nearby properties and adjusted for “forced tax sale adjustments”, a method which TC admitted was appropriate. MH further testified he based his appraisal on his inspection of the interior of the home, its improvements, and on comparable properties in mortgage foreclosure sales in 2015 and 2016. MH stated the comparables he used in his appraisal were closer in condition, improvements, and size than those used by TC.

This Court finds that, (1) TC failed to choose the best comparable sales in his appraisal; (2) Curran never entered the property and only performed a “curb inspection;” (3) TC used the wrong square footage; (4) MH inspected the interior of the property and chose properties with better

comparable sales in his appraisal and therefore was more credible; and (5) the Homeowner offered evidence as to the value of the Parcel with improvements. Based on these factors, this Court finds the \$3,400 amount Purchaser paid, under forced sale conditions, was grossly inadequate. Accordingly, this Court DENIES confirmation of the tax sale and SETS ASIDE the tax sale.

To confirm a sale of parcel at a land tax sale, the trial court must find that adequate consideration has been paid for the purchase. Section 92.840.1. The statute does not define adequate consideration. *In re Foreclosure of Liens for Delinquent Land Taxes Big Action in REM*, 672 S.W.2d 730, 731 (Mo. App. E.D. 1984). However, construing a prior version of the statute, the Supreme Court has held adequate consideration to be “such an amount as the court is satisfied is substantial, and fairly and reasonably commensurate with the value of the land in the circumstances of a forced-tax sale in a proceeding wherein, the sale having been confirmed, the purchaser procures a marketable title.” *Id.* (quoting *Brasker v. Cirese*, 269 S.W.2d 62, 67 (Mo. banc 1954)).

Higher courts typically defer to the trial court’s factual determinations and disregard all contrary evidence. *Manager of Revenue of Jackson County*, 328 S.W.3d at 732. Where there is a conflict in the evidence, the trial court, as fact finder, is entitled to believe all, none, or any part of the testimony. *Ware v. Ware*, 647 S.W.2d 582, 583-84 (Mo. App. E.D. 1983).

Purchaser argued at trial, the Court should allow the Purchaser to increase its bid to satisfy the adequate consideration requirement. Section 92.840.2 provides, in relevant part, “[i]f the court finds that the consideration paid is inadequate, the purchaser *may* increase his bid to such amount as the court *may* deem to be adequate, whereupon the court *may* confirm the sale” (emphasis added). The use of the word “may” in this section indicates this action is permissive, not mandatory. *City of St. Louis, Collector of Revenue v. Parcel 107 of Land*, 702 S.W.2d 123, 126 (Mo. App. E.D. 1985). A trial court may refuse to determine an adequate amount and refuse to permit a purchaser to increase its bid under the individual circumstances of the sale. *See id.*

The Homeowner testified he is willing and able to remedy the tax delinquency, and as such, this Court REFUSES to determine an adequate amount and REFUSES to permit the purchaser to increase its bid under the individual circumstances of the previous sale. The Homeowner has 30 days to remedy the delinquent taxes, after which the Court orders City of St. Louis Collector of Revenue to sell, via City of St. Louis Sheriff's Department, Parcel [REDACTED], also known as [REDACTED] Avenue.

So ordered,

Michael W. Noble, Judge

10.27.17