

Foreclosure Sale Not Voided By Inadequate Price

by Lawrence Szabo, Esq. | Jun 27, 2019 | Case Decisions, Dispute Resolution, Dues and Assessments

This case involved a dispute between an owner of a property within a homeowners association (“Owner”) and the homeowners association (“Association”) over a non-judicial foreclosure sale conducted by Association against Owner’s property for non-payment of assessments owed to Association by Owner. The non-judicial foreclosure sale conducted by Association resulted in Owner’s property, which was worth about \$100,000.00 at the time of the sale, being sold to Association, who happened to be the sole bidder at the sale, for \$4,445.90. Owner did not claim any irregularity in the foreclosure proceedings, but sought to have the sale set aside by the court on equitable grounds due to the shockingly low price that the property sold for at the foreclosure sale.

Owner contended that, because he splits his time among several residences that he owns in different states, he never received the required pre-foreclosure notices sent out by Association. He also testified that he thought Association had been dissolved because a check that he had sent to it had been returned.

The trial court found that, although the foreclosure sale price shocked the Court’s conscience, based on prior court precedents, a conscience-shocking foreclosure sale price standing alone, absent some irregularity in the foreclosure sale, was not sufficient grounds for setting aside the sale. Accordingly, the trial court granted summary judgment in favor of Association. Owner then appealed the trial court’s judgment.

The issue raised by Owner on appeal was whether the trial court erred in granting summary judgment in favor of Association when it found that the sales price at the foreclosure sale was “shockingly” low. The appellate court ruled that, if a foreclosure sale is legally held, conducted and consummated, there must be some evidence of irregularity, misconduct, fraud, or unfairness on the part of the trustee or the mortgagee that caused or contributed to the inadequate sales price, for a court of equity to set aside the sale. Thus, the appellate court stated that, although it was sympathetic to Owner’s position that the sales price was extremely low relative to the value of the property, that fact alone could not warrant relief under the rule set forth in a prior state Supreme Court decision. The court further stated that any change in the rule had to be done by a Supreme Court decision. Accordingly, the trial court’s judgment was affirmed and Association was awarded its costs incurred in responding to the appeal.

Tennessee Appellate Court decision (June 12, 2019).