

Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2004-367

JUNE TERM, 2005

Anthony Tanguay	}	APPEALED FROM:
	}	
v.	}	Orleans Superior Court
	}	
Howard Knight, Ana Cojubar Coblai and All Persons In Possession of 1608 Alderbrook Road, Coventry, Vermont	}	DOCKET NO. 263-11-03 Oscv
	}	Trial Judge: Dennis R. Pearson

In the above-entitled cause, the Clerk will enter:

Defendant Howard Knight appeals pro se from the trial court=s order granting summary judgment to plaintiff Anthony Tanguay. We affirm.

Defendant at one time owned a parcel of real property in the Town of Coventry, Vermont. Defendant failed to pay his property taxes in 2000, however, and the property was sold to plaintiff at a tax sale on November 1, 2001. In November 2003, plaintiff filed a complaint against defendants, seeking a declaration that he was the sole owner of the property, as well as permanent injunctive relief against defendants for any claims that they might raise as to their right to the property, and a writ of possession. In May 2004, plaintiff filed a motion for summary judgment.

In support of his motion, plaintiff identified the following facts. In September 2001, the town tax collector extended and levied a warrant against defendant=s property. On the same date, the tax collector signed a Notice of Tax Sale, which included the sale of defendant=s property. The notice was delivered the next day to a local newspaper and published for three consecutive weeks. On October 12, 2001, the notice was sent by registered mail, return receipt requested, to defendant and to the mortgagees and lien holders of the property, Green Tree Financial Servicing, Ran-Mar Corporation, and Greenpoint Credit Corporation. Defendant signed a return receipt on October 23, 2001, as did representatives of Green Tree Financial Servicing and Ran-Mar Corporation. The notice that had been addressed to Greenpoint Credit Corporation was returned with a notation that the address had been changed and the forwarding order had expired. The town attorney wrote to an entity that he believed was related to Greenpoint Credit Corporation requesting additional information regarding the location of Greenpoint Credit but he received no response.

On September 28, 2001, the notice was posted in the town clerk=s office. Neither defendant nor any mortgagee or lien holder having an interest in the property paid the taxes and costs that were due prior to the time of the tax sale. On November 1, 2001, the scheduled date of the tax sale, the property was sold to plaintiff, the highest bidder. The tax collector completed his report of sale, which was recorded on November 8, 2001 in the town land records. A copy of the report of sale was also provided to defendant. Neither defendant nor any other party in interest redeemed the property within one year after the sale. As there was no redemption of the property prior to the expiration of the redemption period, the town attorney prepared a tax collector=s deed transferring title to the property to plaintiff. The deed was executed on November 29, 2002.

Defendants did not oppose plaintiff=s motion for summary judgment, and the court granted the motion in July 2004, concluding that the undisputed facts demonstrated that plaintiff was entitled to judgment as a matter of law. As the court explained, defendant had notice and opportunity to redeem his property for one year after the tax foreclosure and sale as set forth in 32 V.S.A. ' 5260, and he failed to do so. The court therefore declared plaintiff the sole owner of the property, and permanently enjoined defendants from asserting any claim to the property or interfering with plaintiff=s title and interest in the property. The court also stated that it would approve plaintiff=s request for a writ of possession. Defendant appealed.

On appeal, defendant asserts that he first became aware that his property had been sold in December 2002. He states that he did not sign for the notice of tax sale that was sent to him in October 2001. He indicates his belief that he had two years to redeem the property, and he details his attempts to pay plaintiff the back taxes that he owed.

On review, we apply the same standard as the trial court: summary judgment is appropriate when the record clearly indicates there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. In determining whether a genuine issue of material fact exists, we regard as true all allegations of the nonmoving party supported by admissible evidence, and we give the nonmoving party the benefit of all reasonable doubts and inferences. Lane v. Town of Grafton, 166 Vt. 148, 150 (1997); see also V.R.C.P. 56(c).

Summary judgment was appropriately granted here. As noted above, defendants did not challenge plaintiff=s statement

of undisputed material facts, and thus, the material facts asserted by plaintiff were deemed admitted. See V.R.C.P. 56(c)(2) (All material facts set forth in the statement required to be served by the moving party will be deemed to be admitted unless controverted by the statement required to be served by the opposing party.@). We reject defendant=s attempt to challenge the facts for the first time on appeal. The undisputed facts in this case show that the statutory requirements for a tax sale of real property were satisfied. See 32 V.S.A. " 5252-5262. The property was not redeemed within one year after the sale, and plaintiff thus acquired title to the property. See 32 V.S.A. " 5260; 5261. We have considered all of the arguments raised in defendant=s brief and none undermine this conclusion. Summary judgment was properly granted to plaintiff.

Affirmed.

BY THE COURT:

Paul L. Reiber, Chief Justice

Denise R. Johnson, Associate Justice

Marilyn S. Skoglund, Associate Justice