

Court of Appeals, State of Michigan

ORDER

In re Petition of Berrien County Treasurer for Foreclosure

Docket No. 327688

LC No. 2014-000170-CZ

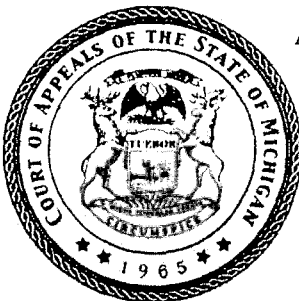
Jane E. Markey
Presiding Judge

William B. Murphy

Douglas B. Shapiro
Judges

The Court orders that the motion for immediate consideration is GRANTED.

In lieu of granting the motion for partial peremptory reversal, the Court VACATES the May 20, 2015 judgment of foreclosure. The trial court committed manifest error. MCL 211.78k(7) specifically and unambiguously provides for an appeal of right from a judgment of foreclosure entered under this statutory foreclosure scheme, provided the appellant pays to the county treasurer the amount due on the property within 21 days after entry of the judgment. When granting the right to appeal, the Legislature possesses the "unquestioned authority" to impose as a "jurisdictional condition precedent" to an appeal the condition of payment of the amount of a delinquent tax decree and this condition precedent "may be neither waived by counsel nor dispensed with by court." *In re Petition of Auditor General*, 252 Mich 367, 368-369; 233 NW 348 (1930). We REMAND this matter to the trial court for entry of a new judgment of foreclosure that does not include a provision that relieves New Products Corporation of its statutory obligation to pay the amount owed under the judgment as a condition to appealing. The May 20, 2015 order having been vacated, plaintiff's appeal and defendant's cross appeal are DISMISSED as MOOT. The parties may appeal from the new judgment in accordance with MCL 211.78k(7) and the applicable court rules. This order has immediate effect. MCR 7.215(F)(2).



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

June 10, 2015

Date


Chief Clerk