

STATE OF MICHIGAN  
COURT OF APPEALS

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CITY OF EASTPOINTE,

Plaintiff-Appellee,

v

GLENDALE/RIVERVIEW ASSOCIATES, LLC,

Defendant-Appellant,

and

PETER ADAMO,

Defendant.

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UNPUBLISHED

June 16, 2015

No. 321047

Macomb Circuit Court

LC No. 2013-003691-CH

Before: JANSEN, P.J., and SAWYER and FORT HOOD, JJ.

PER CURIAM.

Defendant Glendale/Riverview Associates, LLC (defendant Glendale/Riverview) appeals by right the circuit court's grant of summary disposition in favor of plaintiff, as well as the circuit court's final order incorporating the terms of an earlier default judgment, quieting title to certain real property in plaintiff, and voiding defendant Glendale/Riverview's claim of interest in the subject property. We affirm in all respects.

The subject real property (the property) is a former Chrysler dealership on Gratiot Avenue in Eastpointe, Michigan. The property was owned by A & D Realty, LLC (A & D Realty). The Macomb County Treasurer commenced tax-foreclosure proceedings against the property in accordance with the General Property Tax Act (GPTA), MCL 211.1 *et seq.* This resulted in the entry of a final Tax Foreclosure Judgment in the Macomb Circuit Court on February 3, 2012.

Notice of the Tax Foreclosure Judgment was recorded in the office of the Macomb County Register of Deeds. MCL 211.78k(8). A copy of the Tax Foreclosure Judgment was served on A & D Realty on February 10, 2012. Because A & D Realty did not redeem the property by paying the delinquent taxes, interest, penalties, and fees before March 31 or within the statutory period, fee simple title vested absolutely in the Macomb County Treasurer. MCL 211.78k(6). This divested A & D Realty of all right, title, and interest in the property. *Id.*; see also *In re Petition of Wayne Co Treasurer*, 478 Mich 1, 8; 732 NW2d 458 (2007).

On July 9, 2012, more than five months after the Tax Foreclosure Judgment was entered, A & D Realty executed a quit claim deed purporting to convey the property to defendant Glendale/Riverview. This quit claim deed was recorded in the office of the Macomb County Register of Deeds on July 16, 2012.

We disagree with defendant Glendale/Riverview's assertion that it acquired ownership of the property by way of the quit claim deed from A & D Realty dated July 9, 2012. This quit claim conveyed nothing to defendant Glendale/Riverview. A quit claim deed conveys only whatever interest the grantor possesses. MCL 565.3; see also *Bird v Stimson*, 197 Mich 582, 598; 164 NW 438 (1917) (observing that "the grantee in a quitclaim deed acquires the right and title which his grantor had, and no other"). As already explained, A & D Realty possessed no right, title, or interest in the property as of July 9, 2012, because its ownership interest had been completely extinguished by way of the tax-foreclosure proceedings. MCL 211.78k(6); see also *In re Petition of Wayne Co Treasurer*, 478 Mich at 8. It is axiomatic that a grantor may not convey by deed that which he does not own. See *Brooks v Hill*, 1 Mich 118, 123 (1848).

Defendant Glendale/Riverview took nothing by way of the quit claim deed from A & D Realty because A & D Realty had nothing to convey. We reiterate that notice of the Tax Foreclosure Judgment was recorded in the office of the Macomb County Register of Deeds. Therefore, defendants were on constructive notice that A & D Realty no longer possessed any interest in the property. If defendants had searched the Macomb County land records, they would have discovered that A & D Realty had no lawful title to grant.

Because defendant Glendale/Riverview acquired no interest in the property from A & D Realty, neither it nor defendant Adamo was entitled to notice in this case. For the same reason, defendants could not establish a meritorious defense sufficient to warrant setting aside the default judgment. See MCR 2.603(D)(1); *Saffian v Simmons*, 477 Mich 8, 14; 727 NW2d 132 (2007).

We conclude that the circuit court properly granted plaintiff's motion for summary disposition, properly quieted title to the property in plaintiff, and correctly voided defendant Glendale/Riverview's claim of interest in the property. Given the lack of merit in defendants' arguments, we cannot say that the circuit court abused its discretion by granting plaintiff's request for a bond pending appeal in this case. See MCR 7.209(B)(1). Lastly, we reject defendants' contention that the circuit judge was biased against them. Plaintiff was clearly entitled to judgment as a matter of law, and it is apparent from our review of the record that neither bias nor animus played any role in the circuit court's decision.

In light of our conclusions, we need not decide whether the clerk of the circuit court properly rejected defendants' answer, whether defendants should have been given additional time to answer the complaint, whether defendants would have been entitled to notice under

different facts, or whether the default judgment was properly entered. Nor do we address whether the Macomb County Treasurer complied with the GPTA.<sup>1</sup>

Affirmed. As the prevailing party, plaintiff may tax its costs pursuant to MCR 7.219.

/s/ Kathleen Jansen  
/s/ David H. Sawyer  
/s/ Karen Fort Hood

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<sup>1</sup> Contrary to defendants' argument on appeal, we do note that plaintiff was entitled to purchase the property from the Macomb County Treasurer for the minimum bid amount. MCL 211.78m(1). With respect to tax-foreclosed properties that are sold to the state or a city, village, township, or county under MCL 211.78m(1), no auction is held under MCL 211.78m(2).