

STATE OF MICHIGAN
COURT OF APPEALS

ELAINE PRICE DONALDSON, f/k/a ELAINE
WILLIAMS,

Plaintiff-Appellee,

v

WAYNE COUNTY TREASURER,

Defendant-Appellant.

UNPUBLISHED
August 9, 2005

No. 253661
Wayne Circuit Court
LC No. 03-339709-PZ

Before: Whitbeck, C.J., and Sawyer and Fitzgerald, JJ.

PER CURIAM.

Defendant Wayne County Treasurer appeals as of right from the circuit court's grant of plaintiff Elaine Donaldson's motion for injunctive relief, which (1) prohibited the Wayne County Treasurer from issuing a deed on tax forfeited property, (2) allowed Donaldson twenty-one days to redeem the property, and (3) if redeemed, nullified the sale of the property. We affirm. We decide this case without oral argument pursuant to MCR 7.214(E).

I. Basic Facts And Procedural History

Pursuant to the General Property Tax Act (GPTA),¹ the Wayne County Treasurer obtained a judgment of foreclosure on Donaldson's property on March 10, 2003, for non-payment of property taxes for the year 2000. Donaldson did not reside at the subject property, but she rented it during the relevant time period. Donaldson claimed she never received notice of a delinquency or of a possible foreclosure and admitted that, through her own negligence, she forgot to pay taxes for that year. However, Donaldson offered uncontested evidence that in previous years, notice for the subject property had been sent to her actual place of residence. Donaldson was granted a temporary restraining order and preliminary injunction preventing the Wayne County Treasurer from issuing a quitclaim deed for the tax-foreclosed property, giving Donaldson twenty-one days to redeem the property and nullify the sale of the property.

¹ MCL 211.1, *et seq.*

II. Jurisdiction

A. Standards Of Review

We review de novo a claim of defect of jurisdiction.² We review a claim of wrongful grant of a preliminary injunction for an abuse of discretion.³

B. The Statutory Notification Requirement

On appeal, the Wayne County Treasurer asserts that the GPTA divested the circuit court of jurisdiction to hear a complaint filed twenty-one days after a judgment of foreclosure. The Wayne County Treasurer also claims that Donaldson's complaint was an impermissible collateral attack on the circuit court's prior judgment of foreclosure.

We recently addressed the very same arguments that the Wayne County Treasurer raises, and held that each fails if a circuit court finds that its previous judgment of foreclosure was defective for violation of a party's due process rights.⁴ In this case, the circuit court found that the Wayne County Treasurer had Donaldson's true address in its possession but failed to use it to properly notify her as the GPTA requires. Accordingly, the circuit court found that its previous judgment of foreclosure was defective as a violation of Donaldson's due process rights. Therefore, the circuit court had jurisdiction to grant the relief Donaldson requested and invalidate its previous judgment. Because no viable previous judgment existed, there was no collateral attack.

Affirmed.

/s/ William C. Whitbeck

/s/ David H. Sawyer

/s/ E. Thomas Fitzgerald

² *WPW Acquisition Co v City of Troy*, 254 Mich App 6; 656 NW2d 881 (2002).

³ *County Rd Ass'n of Michigan v Governor*, 260 Mich App 299; 677 NW2d 340 (2004).

⁴ See *In re Wayne Co Treasurer Petition*, 265 Mich App 285; ___ NW2d ___ (2005).