

Tennessee: Court of Appeals Holds Person Entitled to Redeem Must Hold Interest in Property at Time of Tax Sale

By Jerry Morgan

In a result that opposes a case of the same Court and similar facts (City of Chattanooga v. Tax Year 2011 City Delinquent Real Estate Taxpayers), The Tennessee Court of Appeals has held that a person attempting to redeem property after a tax sale must have been an “interested party” at both the time of the tax sale and at the time the motion to redeem is filed. *Madison County, TN, et al. v. Delinquent Taxpayers for 2012, et al., No. W2016-02526-COA-R3-CV.*

Can You Buy The Right To Redeem?

In Tennessee, if you are delinquent in paying tax on your real property and subsequently lose the property at a tax sale, all is not necessarily lost.

As the property owner, you retain the right to get the property back according to the statutory right of redemption. Commonly known as the right to redeem, this statute enables homeowners to repurchase a property upon payment of any back taxes, penalties, costs, and interest.

But while *you* may retain this right after losing your property due to a tax sale, your statutory right to redemption is not something that can be sold to another person. Unless, that is, the person in question meets the statute’s clear and definitive stipulation on *“interested parties.”*

This was the basis for the appeal filed by a purchaser who bought a home at a delinquent tax sale in Jackson, Tennessee.

Eric and Regina Sills were the original owners of the real property, which sold to Thomas Hyde for \$150,000 on March 10, 2016, subject to the right of redemption. The sale was confirmed by decree on March 31, 2016, and on April 22, 2016, the Sills sold all their interest and rights in the property to Mr. Hyde, specifically, the right to redeem.

After the transaction, Mr. Hyde filed a motion to redeem the property and tendered all of the necessary funds (the taxes, interest, and other sums due to the tax sale purchaser) into the court. Mr. Hyde asserted his case as that he was entitled to redeem the property as he had purchased the right of redemption after the tax sale.

The trial court disagreed, and Mr. Hyde’s motion to redeem was denied. The trial court based their verdict on Tennessee Code Annotated § 67-5-2701(a)(3)(C), which states:

“Person entitled to redeem” means, with respect to a parcel, any interested person, as defined in this chapter, as of the date of the sale and the date the motion to redeem is filed[.]

The trial court found that Mr. Hyde was not an *“interested person”* on both the date of the tax sale and the date he filed his motion to redeem. The trial court looked to the plain language of the statute, and concluded that Mr. Hyde did not possess an interest in the property on the date of the tax sale, and thus did not qualify as a person with the right to redeem the property.

Court of Appeals Affirms No Right to Redeem

The Court of Appeals affirmed the statute, finding that Mr. Hyde was not, to his dismay, entitled to redeem.

In verifying the decision, the Court first set out the general principles to which it must adhere in interpreting statutes. It reiterated well-established standards of determining and giving effect to the legislature’s intent *“without broadening or restricting the statute beyond its intended scope”*.

The Court provided a reminder that it *“must always begin with the words the General Assembly has used.”* Its first task is to discern legislative intent *“purely from the natural and ordinary meaning of the language used, without forced or subtle construction that would limit or extend the meaning of the language.”* Finally, the Court noted that, *“[w]hen the language of the statute is clear and unambiguous, courts look no farther to ascertain its meaning.”*

With the rules of construction set out, the Court then looked to Mr. Hyde’s arguments that he was entitled to redeem the property. Mr. Hyde noted that under previous versions of the tax redemption statute, Tennessee courts had held that the right of redemption was freely transferable by delinquent taxpayers to third parties. Thus, Mr. Hyde took the position that the legislature had no intention of altering that practice when it amended and rewrote the redemption statute. He claimed that the current version of the statute uses *“somewhat awkward and imprecise language”* to define a person entitled to redeem. Finally, Mr. Hyde argued that the legislature *“did not understand its prior revisions to effectuate such a radical change in the alienability of the equity of redemption.”*

Notwithstanding those arguments, the Court of Appeals affirmed the trial court, agreeing that Mr. Hyde was not a person entitled to redeem within the statute. In fact, the Court did not find it necessary to *“delve into”* the arguments and citations made by Mr. Hyde, because *“we find the statutory language clear and unambiguous.”*

As support for this holding, the Court looked to *State ex rel. Comm’r of Transp. V. Med. Bird Black Bear White Eagle*, 63 S.W.3d 734, 754 (Tenn. Ct. App. 2001) for the proposition: *“Judicial construction of a statute will more likely hew to the General Assembly’s expressed intent if the court approaches the statutory text believing that the General Assembly chose its words deliberately, and that the General Assembly meant what it said.”*

Here, although Mr. Hyde argued that a person may obtain the right to redeem if they are an interested person at the time the motion to redeem is filed, the Court found such a construction completely at odds with the statute, which used the word *“and”*. To bear any standing, Mr. Hyde’s argument would naturally have to replace the word *“and”* with *“or,”* which *“would require that we ignore the ordinary and natural meaning of these terms.”*

In the end, the Court of Appeals concluded that, somewhat plainly and unsurprisingly, the legislature said what it meant and meant what it said. Accordingly, a person entitled to redeem property after a tax sale in Tennessee must be an interested party at the time of the tax sale AND at the time the motion to redeem is filed.