S T A T E O F N E W Y O R K

741--A

2015-2016 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2015

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- recommitted to the Committee on Local Government in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT relating to final judgment in foreclosures by in rem proceedings in the city of Buffalo

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Final judgment; proceedings in the city of Buffalo. Notwithstanding the provisions of section 1136 of the real property tax law, the following provisions shall apply to final judgments in in rem proceedings taken in the city of Buffalo. 1. Generally. The court shall have full power to determine and enforce in all respects the priorities, rights, claims and demands of the several parties to the proceeding, as the same exist according to law, including the priorities, rights, claims and demands of the respondents as between themselves. The court shall further determine upon proof and shall make findings upon such proof whether there has been due compliance by the tax district with the provisions of article 11 of the real property tax law.

2. When an answer has been interposed. (a) When an answer has been interposed by a party other than a tax district as to any parcel of real property included in the petition described in section 1123 of the real property tax law and the court determines that the answer is meritorious, the court shall dismiss the petition of foreclosure, with or without prejudice, as to the affected parcel or parcels, unless an agreement is executed pursuant to subdivision 2 of section 1150 of the real property tax law. If the court determines that the answer is not meritorious, the court shall make a final judgment awarding to such tax district

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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the right to convey title to the affected parcel or parcels in the same manner as provided by subdivision three of this section.

(b) When an answer has been interposed by another tax district as to any parcel and the court shall determine that such other tax district has an interest in such parcel, then and in that event the tax districts having an interest in such parcel may by agreement between themselves pursuant to subdivision 1 of section 1150 of the real property tax law provide (i) for a conveyance without sale of any such parcel to one of such tax districts free and clear of any right, title or interest in or lien upon such parcel or such other tax district or districts or (ii) for a conveyance without sale of any such parcel to one of such tax districts subject to any right, title or interest in or lien upon such parcel of such other tax district or districts. In either of such events, the court shall in its judgment expressly dispense with the sale and direct the making and execution of a conveyance by the enforcing officer in accordance with such agreement. In the absence of such an agreement, the court shall make a final judgment directing the sale of such parcel in the same manner as provided by subdivision four of this section, except that the conveyance may expressly be made subject to tax liens of a tax district as provided herein.

3. When no answer has been interposed. The court shall make a final judgment awarding to such tax district the right to convey title to any parcel of real property described in the petition of foreclosure not redeemed as provided in article 11 of the real property tax law and as to which no answer is interposed as provided herein. In addition thereto, where the enforcing officer has requested that such a parcel be sold pursuant to subdivision four of this section without the tax district taking title thereto, the judgment shall so direct. Otherwise such judgment shall contain a direction to the enforcing officer of the tax district to prepare, execute and cause to be recorded a deed conveying to such tax district full and complete title to such parcel. Upon the execution of such deed, the tax district shall be seized of an estate in fee simple absolute in such parcel and all persons, including the state, infants, incompetents, absentees and non-residents who may have had any right, title, interest, claim, lien or equity of redemption in or upon such parcel shall be barred and forever foreclosed of all such right, title, interest, claim, lien or equity of redemption. The tax district may sell any parcel so acquired in the manner provided by section 1166 of the real property tax law if it does not choose to retain the parcel for a public use.

4. Court-ordered sales. Where the enforcing officer requests that a parcel be sold without the tax district taking title thereto, the judgment shall direct that a public auction shall be conducted by or under the direction of the enforcing officer. Public notice of such sale shall be given once a week for at least three successive weeks in a newspaper published in the county in which such tax district is situated. The terms and conditions of such sale shall be as prescribed by court order, provided that all proceeds including any surplus, shall be paid to the county comptroller pursuant to subdivision five of this section. At the conclusion of such sale the enforcing officer shall prepare and execute a deed conveying to the purchaser or its designee full and complete title to such parcel. Upon the delivery and acceptance of such deed, the grantee shall be seized of an estate in fee simple absolute in such parcel and all persons, including the state, infants, incompetents, absentees and non-residents who may have had any right, title, interest, claim, lien or equity of redemption in or upon such parcel shall be

barred and forever foreclosed of all such right, title, interest, claim, lien or equity of redemption.

5. Notification of surplus. Upon confirmation of a surplus resulting from a sale of the foreclosed property under subdivision four of this section, the city of Buffalo shall attempt to notify the owner of the property or his or her heirs, successors, or assigns, at least three times within two consecutive calendar years from the date of the sale of the property. Five years after the date of such foreclosure, any moneys remaining with the comptroller shall be paid to the Buffalo urban renewal agency to support the agency's weatherization and community development projects. Provided, however, if the occupant of a property, at the time of the foreclosure sale, is the owner-occupant and such occupant uses the property as their primary residence, any surplus from a sale of such property shall remain with the comptroller until claimed by a rightful owner. Any individual owner, their heirs, successors or assigns of an owner occupied foreclosed property may collect the surplus from such foreclosure at any time from the county comptroller or state comptroller.

S 2. This act shall take effect immediately and shall apply to any surplus funds from the proceeds of a tax lien foreclosure sale in the city of Buffalo paid into court on or after such effective date.