

Bond Case Briefs

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Wells Fargo Bank, N.A. as Trustee for Carrington Mortgage Loan Trust, Series 2006-NC2 Asset- Backed Pass-Through Certificates v. Budram

Supreme Court, Appellate Division, Third Department, New York - November 5, 2020 - N.Y.S.3d - 2020 WL 6493824 - 2020 N.Y. Slip Op. 06323

In action by mortgagee to enforce its mortgage after taxpayer-mortgagors reacquired property from city following tax foreclosure sale, the Supreme Court entered order dismissing complaint and, upon reargument, adhered to its prior decision dismissing complaint.

The Supreme Court, Appellate Division, held that any transfer of real property from city back to taxpayers, after the city had acquired a fee simple interest therein by a deed issued following tax foreclosure sale, could not be considered a redemption of the property or a rescission of the tax foreclosure, and did not restore mortgage lien.

Any transfer of real property from city back to taxpayers, after the city had acquired a fee simple interest therein by a deed issued following tax foreclosure sale, could not be considered a redemption of the property or a rescission of the tax foreclosure, and did not have effect of restoring mortgage lien which had been extinguished upon city's acquisition of fee simple interest in property by the issuance of deed following expiration of taxpayer-mortgagors' right of redemption; mortgagee, having made no attempt to protect its mortgage interest in tax foreclosure proceeding, could not attempt to enforce its mortgage once taxpayer-mortgagors reacquired the property from city.