

Bond Case Briefs

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McKeithen Trustee of Craig E. Caldwell Trust U/A Dated December 28, 2006 v. City of Richmond

Supreme Court of Virginia - October 19, 2023 - S.E.2d - 2023 WL 6884689

Judgment creditor, a junior lienholder, moved for payment of remaining, unclaimed portion of surplus proceeds from judicial sale of judgment debtor's property to satisfy city's tax lien.

The Richmond Circuit Court denied motion and denied reconsideration. Judgment creditor appealed.

The Supreme Court held that:

- Unclaimed surplus proceeds escheated to city pursuant to statute governing judicial tax sales, but
- Escheat provision of statute violated takings clause of the State Constitution as applied.

Under statute governing distribution of surplus proceeds after judicial sale of property to collect delinquent local real estate taxes, the unclaimed portion of surplus proceeds held in the court's registry escheated to city after expiration of the two-year deadline for unknown lien beneficiaries to make a claim, even though city's tax lien had been fully satisfied.

Escheat provision of statute governing distribution of surplus proceeds after a judicial sale of property to collect delinquent local real estate taxes violated the takings clause of the State Constitution as applied to judgment creditor that unsuccessfully sought the remaining, unclaimed portion of surplus proceeds to satisfy its junior lien after city's tax lien had been fully satisfied and unknown senior lien beneficiaries did not make claim within two years of judicial confirmation of sale, where city laid claim to the unclaimed proceeds solely by operation of the mandatory statutory escheat, and city did not assert any specific public-use justification.