

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

---

## **FORECLOSURE - ILLINOIS**

### **Baker v. Forest Preserve Dist. of Cook County**

**Appellate Court of Illinois, First District, First Division - May 18, 2015 - N.E.3d - 2015 IL App (1st) 141157**

Taxpayers brought action against bank and county's Forest Preserve District (FPD) seeking declaratory and injunctive relief related to FPD's purchase of farm's note by using public funds and subsequent acquisition of title to farm in foreclosure sale. The Circuit Court granted summary judgment and dismissal for bank and FPD and denied summary judgment for taxpayers. Taxpayers appealed.

The Appellate Court, Connors held that:

- It had jurisdiction to review action;
- Action was not moot; and
- FPD had authority to acquire lien on farm.

Appellate Court had jurisdiction to review taxpayers' action against bank and county's Forest Preserve District (FPD) seeking declaratory and injunctive relief related to FPD's purchase of farm's note by using public funds and subsequent acquisition of title to farm in foreclosure sale, despite claim that judgment in separate mortgage foreclosure action could be affected by Court's finding. Foreclosure action was not of same nature as taxpayer suit, as FPD submitted documentary proof that it owned mortgage and note to farm in foreclosure action while taxpayer suit challenged FPD's ownership of mortgage and note based on county's Forest Preserve District Act, not based on documentary proof, and, while, in taxpayer suit, taxpayers brought action on behalf of all taxpayers and did not seek personal gain, in foreclosure action, mortgagors and affiliated corporate entities sought to defend property against foreclosure for their own benefit and benefit of their companies.

Taxpayers' action against bank and county's Forest Preserve District (FPD) seeking declaratory and injunctive relief related to FPD's purchase of farm's note by using public funds and subsequent acquisition of title to farm in foreclosure sale was not moot, despite claim that, before taxpayers filed notice of appeal in said action, foreclosure court entered order confirming sale of farm and that deed to farm was subsequently delivered to FPD. Actual controversy existed over FPD's expenditure of public funds to purchase farm's note, taxpayers had not already received what they sought in their suit, and, while title to farm had vested in FPD, taxpayers could still seek relief, because it would have been their responsibility to replenish tax revenue for FPD's use going forward.

County's Forest Preserve District (FPD) had authority, under Forest Preserve District Act, to acquire lien on farm by using public funds and to subsequently acquire title to farm in foreclosure sale, despite taxpayers' claim that FPD's power under the Act was limited to acquiring property in fee simple. FPD did not acquire farm for profit but for the public purpose of creating a forest preserve, Act did not require simultaneous exchange of money and title for FPD to acquire farm, and, after foreclosure sale and delivery of deed, FPD owned farm in fee simple.

