

# **Bond Case Briefs**

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## **TAX SALES - MARYLAND**

### **Kona Properties, LLC v. W.D.B. Corp.**

**Court of Special Appeals of Maryland - August 28, 2015 - A.3d - 2015 WL 5090056**

“These cases contain a common thread tying each together and furnishing the reason we granted the motions to consolidate. In each case, subsequent to the tax sale, the tax sale certificate was transferred to another limited liability company that shared either the same address, attorney and/or incorporator. The new holder of the tax sale certificate foreclosed the property owner’s right of redemption and, for some unexplained reason, the certificate holder later decided that it did not want the property and failed to pay the bid price or the outstanding taxes and fees—payment of which is a prerequisite to obtaining the deed to the property. The original property owner or mortgage holder in each case later filed a motion in the circuit court to enforce the judgment against the certificate holder, requiring the certificate holder to pay taxes accruing after the tax sale and to pay the surplus bid to the property owner or mortgage holder. The circuit court granted all three motions to enforce and required the certificate holders to pay the taxes and bid surpluses to the collector.”

The Court of Special Appeals granted holders’ motions to consolidate appeals and held that:

- Orders granting motions to enforce judgment for surplus bids constituted final judgments;
- Trial court had jurisdiction to enforce judgments;
- Court did not abuse its discretion in finding lack of good cause to strike judgments foreclosing rights of redemption;
- Court had discretion to deny motion to strike mortgagee’s motion for monetary judgment against holder;
- Former property owner was entitled to request that court enter judgment for surplus bids against holder;
- Mortgagees were entitled to request that court enter judgments against holders;
- Owner and mortgagees were not unjustly enriched by judgments; and
- Public policy considerations did not preclude court from entering judgments against holders.

Orders granting motions to enforce judgment constituted final judgments for purposes of appeal, in actions in which trial court granted motions to enforce judgment for surplus bids from tax sales owed to former property owner and mortgagees. Orders were entered as separate documents from docket entry, were signed by judge, and decided issue of whether tax sale certificate holders were obligated to pay bid surplus and taxes and interests and penalties due under original judgments to foreclose redemption rights, orders had hallmark of finality in that they put parties out of court, and, by directing holders to pay surplus bids and all taxes together with interest and penalties on taxes due on properties, there was nothing left for court to do to ensure that owner and mortgagees received bid surplus, as parties knew amounts of surplus and, thus, knew exactly how much holders had to pay.

Trial court had jurisdiction to enforce judgments for surplus bids from tax sales owed to former property owner and mortgagee of another property against tax sale certificate holders, following foreclosures of right to redemption, and, thus, owner and mortgagee had standing, despite claim

that court lacked jurisdiction because owner and mortgagee were not properly served. Holders could not have asserted allegedly defective service as justification for vacating judgments foreclosing rights to redeem, and owner and mortgagee had actual notice, as mortgagee filed affidavit stating that it received service and counsel for mortgagee proffered that officer for owner and mortgagee would have testified that they received notice.

Public policy considerations did not preclude trial court from entering monetary judgments against tax sale certificate holders for surplus bids owed to former property owner and mortgagees, despite claim that judgment would send signal to property owners that it was acceptable not to pay property taxes. None of the parties paid taxes due on properties before or after sale, and, thus, city had been subject to cycle of tax delinquency, whereby tax sale purchaser or certificate holder failed to pay its own property taxes after foreclosing title owner's right of redemption, which could not have been intent of Legislature in crafting provisions of tax sale statute.