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In re County Collector

Appellate Court of Illinois, Second District - August 2, 2017 - N.E.3d - 2017 IL App (2d) 160483 - 2017 WL 3276440

Tax sale purchaser filed petition to vacate the tax sale, for a declaration of a sale in error, and for a refund, alleging that property had been classified as farmland but taxed as if it were subdivided residential land.

The Circuit Court denied the petition. Purchaser appealed, and the Appellate Court Reversed and remanded. On remand, town intervened, and the Circuit Court ordered that tax sale refund should be paid from the tax revenue collected for special service areas that had expired. Purchaser appealed. In separate action, second tax sale purchaser filed petition to vacate a sale on the basis that the assessor had improperly classified the property as farmland. The Circuit Court granted town's motion to intervene and ordered refund from tax revenue collected for expired special service areas. Second purchaser appealed, and appeals were consolidated.

The Appellate Court held that:

- Town had right to intervene;
- County collector was not required to issue refunds on demand but rather could issue refunds after collecting funds from appropriate taxing bodies; and
- Purchasers were entitled to be paid refunds from town's general tax revenue, rather than from special service areas.

Town had right to intervene after tax sale purchaser's petition for sale in error was granted and refund was ordered, where town's interests were not at stake until the trial court granted the sale in error and petition was filed shortly after that order was entered, county collector was not protecting town's interests, as it had expressed no preference as to which taxing body was responsible for the refund, and town would be bound by the trial court's judgment as to whether refund would be paid from town's general tax revenue and/or special service area tax revenue.

County collector was not required to issue refunds on demand or up front to tax sale purchasers who successfully petitioned to vacate tax sales as sales in error, but rather county collector could issue refunds after collecting funds from appropriate taxing bodies. County collector did not have the funds on hand necessary to pay the refunds, and had a component of discretion in deciding the timing of the refunds.

Tax sale purchasers who successfully petitioned to vacate tax sales on basis that properties, which were in expired special service areas, had been improperly classified and assessed were entitled to be paid refunds from town's general tax revenue, rather than from special service areas which made up bulk of unpaid tax assessments. Town had established the special service areas and levied the taxes, and thus was the "taxing body" responsible for the refunds, public policy of encouraging tax sale bidders warranted payment of refunds from general tax revenue as opposed to having purchasers losing their investments, and potential to recover directly from property owners did not

preclude recovery from town through county collector.

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