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Town of Redding v. Georgetown Land Development Company, LLC

Supreme Court of Connecticut - September 21, 2020 - A.3d - 2020 WL 5637649

Town, water pollution control commission, and fire district brought action to foreclose municipal tax liens against, among other lienholders, assignee of real estate tax liens originally levied by special taxing district created to finance development project.

Town and fire district filed motions for partial summary judgment with respect to priority, asserting that their tax liens had priority over the tax liens that assignee had acquired from taxing district. Assignee also moved for partial summary judgment.

The Superior Court granted plaintiffs' motions for partial summary judgment and denied that of assignee, and the Superior Court subsequently rendered a judgment of strict foreclosure in favor of town and fire district. Assignee appealed from both orders, and appeal was transferred to the Supreme Court.

The Supreme Court held that:

- Assignee's liens were subordinate to town's liens, but
- Assignee's liens were superior to those of fire district.

In priority dispute over real estate tax liens held by different municipal entities on the same property, tax liens held by assignee, which were originally levied by special taxing district created to finance development project, were subordinate to tax liens held by town; it was undisputed that district's assignment of tax liens to assignee did not affect priority of those liens, priority clause of special act of legislature that created district for this project provided that district's lien for unpaid taxes "shall take precedence over all other liens or encumbrances except a lien for taxes of the town," use of word "except" indicated legislature's intent to remove town's tax liens from class of liens over which district's liens had priority, and review of other statutes addressing lien priority indicated that legislature intended phrase "except a lien for taxes of the town" in priority clause to convey, not just absence of priority over town's liens, but subordination to them.

In priority dispute over real estate tax liens held by different municipal entities on the same property, tax liens held by assignee, which were originally levied by special taxing district created to finance development project, were superior to those of fire district; it was undisputed that taxing district's assignment of tax liens to assignee did not affect priority of those liens, priority clause of special act of legislature that created taxing district for this project provided that taxing district's lien for unpaid taxes "shall take precedence over all other liens or encumbrances except a lien for taxes of the town," and by listing town's tax liens as the only type of lien that was not inferior to taxing district's liens, legislature was presumed to have intended to exclude all other types of liens and encumbrances, including tax liens held by fire district, such that fire district's liens were inferior to taxing district's liens.

