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American Tax Funding, LLC v. Design Land Developers of Newtown, Inc.

Appellate Court of Connecticut - October 20, 2020 - A.3d - 200 Conn.App. 837 - 2020 WL 6126558

Assignee of town municipal property tax liens against estate brought action against estate which sought the foreclosure of tax liens for one year of delinquent taxes and sought an in personam money judgment for two years of delinquent taxes.

The Superior Court granted assignee's motion for default for failure to plead, and assignee filed a motion for a default judgment regarding two counts seeking money judgment. Estate filed a motion to set aside the default and an answer. Thereafter, the Superior Court granted assignee's motion for default judgment. Estate appealed.

The Appellate Court held that:

- Estate's appeal of default judgment against it was moot because trial court lacked jurisdiction, and thus dismissal of appeal was required, and
- Mootness of appeal warranted vacatur of trial court's judgment.

Because estate was not a legal entity, default judgment against it and in favor of assignee of tax liens on estate property was a nullity, and thus, trial court lacked jurisdiction to render default judgment against estate and estate's appeal was moot and required dismissal; assignee's complaint named estate as defendant, summons listed the estate as the party served, service on the estate was executed by serving coexecutor of estate, complaint did not name any coexecutor in a representative capacity, nor did coexecutors names appear on any appellate materials in an individual capacity, all materials filed by estate were submitted under name of, or behalf of, estate, and appellate file was not replete with references to coexecutors, nor were they treated as real parties in interest.

Mootness of appeal due to trial court's entry of default judgment against estate, which was not a legal entity and lacked the capacity to be sued, warranted vacatur of trial court's order, where estate was not responsible for mootness of its appeal, and trial court's unreviewable judgment could have had preclusive effects against estate in subsequent litigation.