Bond Case Briefs

Municipal Finance Law Since 1971

TAX - NEW JERSEY

Winberry Realty Partnership v. Borough of Rutherford

Supreme Court of New Jersey - June 28, 2021 - A.3d - 2021 WL 2639787

Taxpayers brought action under § 1983 and state Civil Rights Act against borough and borough's tax collector alleging violation of right of redemption arising from tax collector's refusal of taxpayers' attempt to redeem tax sale certificate before entry of final foreclosure judgment on their home.

The Superior Court granted summary judgment for borough and tax collector. Taxpayers appealed. The Superior Court, Appellate Division, affirmed in part and reversed in part. Parties filed petition and cross-petition for certification, which were granted.

The Supreme Court held that:

- Tax collector was not entitled to qualified immunity, and
- Borough had potential municipal liability for tax collector's conduct.

Borough's tax collector did not act in an objectively reasonable manner and thus was not entitled to qualified immunity from taxpayers' civil rights suit alleging violation of right of redemption arising from tax collector's refusal of taxpayers' attempt to redeem tax sale certificate before entry of final foreclosure judgment on their home, where tax collector withheld, or made no effort to secure, the information necessary for taxpayers to vindicate their substantive right to reclaim home under Tax Sale Law, apparently due to taxpayers' noncompliance with tax collector's policy requiring a written redemption request, and tax collector flatly refused to accept redemption payment at a point when right to redeem tax sale certificate had not been cut off.

Borough's tax collector had final policymaking authority on matters relating to redemption of tax sale certificates such that borough could be liable under § 1983 and state Civil Rights Act for her conduct that allegedly violated civil rights of taxpayers in refusing their attempt to redeem tax sale certificate before entry of final foreclosure judgment on their home; Tax Sale Law identified a tax collector as sole person with authority to accept payment to redeem a tax sale certificate and, by her own account, tax collector implemented unwritten policies and procedures governing redemption during her tenure as tax collector including requirement of written redemption calculation requests before that practice was directly authorized by statute.

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com