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Cazenovia Creek Funding I, LLC v. White Eagle Society of Brotherly Help, Inc.

Appellate Court of Connecticut - August 1, 2023 - A.3d - 220 Conn.App. 770 - 2023 WL 4852104

Holder of municipal tax liens, which were originally assigned to holder's predecessor in interest by city collector of revenue, brought foreclosure action against owner of real property.

The Superior Court granted holder's motion for summary judgment as to liability. Another holder was substituted as plaintiff, and subsequent holder was later substituted as plaintiff. The Superior Court rendered a judgment of foreclosure by sale. Owner appealed.

The Appellate Court held that:

- Holder met prima facie burden of establishing ability to foreclose;
- Owner had burden of proof to establish assignment of liens was defective;
- Property owner's evidence did not create genuine issue of material fact as to whether assignment of liens was defective; and
- Holder met burden of proof that tax was properly assessed.

Owner of real property had burden of proof regarding its special defense that city's assignment of municipal tax liens to holder's predecessor in interest was defective, and thus holder did not have burden in lien foreclosure proceeding to prove that liens recorded by city were properly authorized by its legislative body prior to being assigned.

Property owner's submission of city council minutes that were from three different meetings and that failed to reflect approval of a resolution to assign real-property taxes for grand lists for years for which tax license were imposed did not create genuine issue of material fact as to whether city's assignment of tax liens to holder's predecessor in interest was defective and thus did not preclude summary judgment in favor of holder of tax liens in action to foreclose liens; there was no evidence that the three city council meetings were only city council meetings held between relevant dates, and property owner did not present any evidence to show liens assigned were not encompassed in city council's resolution to approve assignment of liens for subsequent year.

Holder of municipal tax liens met its burden of proof under rule governing foreclosures of municipal tax liens that tax or assessment was properly assessed, due, and payable on property and no part had been paid, and thus burden of proof shifted to property owner to allege and prove, as affirmative defense, claimed informality, irregularity, or invalidity in assessment or attempted collection of tax, or in lien filed; holder submitted copies of certificates of continuing lien showing unpaid taxes were assessed to property and due, holder submitted affidavit from its predecessor in interest that demand had been made but no payments made, and property owner did not rebut holder's evidence with any proof of payments made to either holder or predecessor in interest.

