

Bond Case Briefs

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257-261 20th Avenue, Realty, LLC v. Roberto

Supreme Court of New Jersey - January 9, 2025 - A.3d - 2025 WL 52059

Purchaser of tax sale certificates brought foreclosure action against owner of mixed residential and commercial use property.

After entry of default judgment for purchaser, the Superior Court granted owner's motion to vacate default judgment and, after redemption, dismissed the action with prejudice. Purchaser appealed. The Superior Court, Appellate Division, affirmed. Purchaser petitioned for certification of appeal, which was granted.

The Supreme Court held that:

- Owner's motion to vacate was timely;
- Purchaser's appeal of trial court's vacatur of final judgment of foreclosure rendered foreclosure action pending and not final; and
- Prior version of TSL violated the Takings Clause of the Fifth Amendment.

Motion to vacate filed within two months of default judgment of foreclosure against owner of mixed residential and commercial use property was timely under Tax Sale Law (TSL) imposing a three-month time limit to reopen a final judgment, and under rule requiring that motions for relief from a final judgment or order be made not more than one year after the judgment.

Appeal of state trial court's vacatur of final judgment of foreclosure by purchaser of tax sale certificates against owner of mixed residential and commercial use property rendered case pending and not final so that, pursuant to the Supremacy Clause, intervening United States Supreme Court precedent, holding that a homeowner faced with forfeiture of surplus equity in her home under Minnesota's tax foreclosure law had plausibly alleged a taking in violation of the Fifth Amendment, applied to purchaser's pending appeal in state court, and therefore New Jersey Supreme Court was required to assess parties' arguments and determine whether the taking of owner's property under Tax Sale Law (TSL) was without just compensation contrary to the Fifth Amendment.

To the extent that prior version of Tax Sale Law (TSL) allowed lienholders to retain surplus equity in property that exceeded the amount of tax sales certificates purchased at public auction along with interest and related costs, TSL violated the Takings Clause of the Fifth Amendment.