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Former Gasoline Service Station Property/Tax Sales Certificates of Purpose: New Jersey Appellate Court Purchaser's Request to Vacate Default Foreclosure Judgment

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The Superior Court of New Jersey – Appellate Division (“Court”) described in a September 8th Opinion issues arising out of the purchase of tax sales certificates associated with a former gasoline service station. See *Independent Investors v. Goleman*, 2022 WL 4100212.

The Opinion describes (but does not decide) an attempt by the party filing the foreclosure complaint to vacate the default foreclosure judgment arguing that the New Jersey borough misrepresented the environmental condition of the property.

Jesse J. Goleman (“Goleman”) is stated to have purchased real property in 2008 that had been utilized as a gasoline service station. Goleman utilized the real property to service automobiles without selling gasoline. As a result, the Borough of Audubon (“Borough”) issued Goleman a permit to remove an underground storage tank (“UST”).

Goleman’s son was subsequently appointed Administrator of the Estate after Goleman’s death.

The Borough in 2013 filed liens on the real property for unpaid taxes. Plaintiff Independent Investors (“II”) purchased tax sales certificates for two tax years.

II filed a foreclosure complaint against the estate in 2016. In 2018 it obtained an uncontested final judgment of foreclosure by default in April of 2018. Consequently, Plaintiff II was vested with legal title to the real property.

In February 2019 Plaintiff (without notice to the Borough) moved to vacate the default foreclosure judgment. The basis for the Motion to Vacate is described as:

... one of plaintiff’s partners, Ethel Roerdomp, certified the Borough’s environmental consultant and an unnamed employee of the Borough misrepresented the environmental condition of the Property prior to plaintiff’s filing of its foreclosure action.

Roerdomp is stated to have claimed that the consultant:

... said his company removed underground tanks, tested the soil on the Property, and "there was no contamination and no further action required."

Roerdomp claimed that:

- The information was false
- If II had received truthful information, it would not have proceeded to final judgment

The lower court granted II's unopposed motion and vacated the default foreclosure judgment. Consequently, title to the real property reverted to the estate and II's foreclosure complaint was dismissed.

The Borough filed a motion to intervene in the foreclosure suit one year later to which II opposed.

The Borough argued:

- It did not discover II had successfully vacated the default judgment until August 2019
- II's claims of misrepresentation by a municipal employee lacked any support
- II was on constructive notice of environmental conditions on the property because Goleman had sought removal of the UST and this was a matter of public record

The Court did not reach the merits of these questions. The Opinion focuses on the lower court's decision to reject the Borough's intervention because the case was deemed to not "exist anymore."

The Borough appealed arguing that intervention was appropriate since it was an interested party in the foreclosure suit and II alleged misrepresentation by a Borough employee in seeking to vacate the judgment.

II countered that the appeal was untimely.

The remainder of the Opinion addresses the Court's conclusion that the Borough was entitled to intervene regardless of whether the lower court vacated the foreclosure judgment. The Court did not address the merits of the Borough's opposition to the Motion to Vacate. Instead, it remanded the matter for the lower court to reconsider II's motion to vacate the foreclosure judgment.

A copy of the Opinion can be downloaded [here](#).