
IN THE
COURT OF SPECIAL APPEALS OF MARYLAND

September Term, 2002
No. 2489

HEARTWOOD 88, INC.,

Appellant

v.

MONTGOMERY COUNTY, MARYLAND, et al.,

Appellees

On Appeal from the Circuit Court for Montgomery County, Maryland
(Paul A. McGuckian, Judge)

BRIEF OF APPELLEES

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STATEMENT OF THE CASE

Heartwood 88, Inc., filed a declaratory judgment action in the Circuit Court for Montgomery County, Maryland, seeking a determination of its rights in relation to its purchase of 331 certificates of tax sale at the June 2000 tax sale conducted by Montgomery County.¹ (E. 9-22) In its complaint, Heartwood also sought a judicial ruling that the tax sales were void. The allegations acknowledged that the taxes had been paid on the properties before the tax sale and, therefore, the properties were not eligible for purchase at the tax sale. (E. 17) The County returned the purchase price plus 8% interest, along with the high-bid premium. (E. 17) Heartwood, however, wanted to obtain the redemption rate of interest on the refund (20%), as well as costs, expenses, and attorney's fees. (E. 18-19)

The County filed a counterclaim seeking reimbursement of the 8% interest it paid on the refund to Heartwood. (E. 39-45) The counterclaim alleged that only a specific statute could authorize the payment of interest to Heartwood. Yet, the statutes remain silent regarding what remedies or procedures apply in a situation where the tax collector discerns that the taxes were never in arrears, making the tax sale void. (E. 44) Absent a legislative enactment, the interest paid on the purchase price in this instance was a mistake. (E. 44)

The parties filed cross-motions for summary judgment. (E. 5-6) Heartwood contended that it was entitled to a return of the purchase price, plus the redemption rate of interest (20%), costs, expenses, and attorney's fees. The County argued that, because the sale was void from its inception, Heartwood was entitled only to receive a refund of the

¹Heartwood placed successful bids on 1,385 separate properties; only 331 properties are involved in this dispute. (E. 41)

purchase price and the high-bid premium, but nothing more. Upon considering the opposing positions, the circuit court declared that the County had an obligation to return only the purchase price and the high-bid premium to Heartwood and that Heartwood must return the 8% interest to the County. (E. 102-109) This appeal ensued.

QUESTIONS PRESENTED

- I. Did the circuit court properly apply State law governing tax sales to require the County to return only the purchase price and the high-bid premium to a purchaser of property for which taxes had been paid prior to the tax sale?**
- II. Did the circuit court properly order Heartwood to return the 8% interest paid mistakenly by the County?**

STATUTES, ORDINANCES AND CONSTITUTIONAL PROVISIONS

The full text of all relevant statutes, ordinances and constitutional provisions appears in the appendix to this brief.

STATEMENT OF ADDITIONAL FACTS

Heartwood has set forth most of the pertinent facts in its brief. To the extent that additional facts become necessary, the County will include them with its discussion of the issues.

ARGUMENT

The County offered several properties at tax sale without realizing that the property taxes had been paid prior to the sale. Several months after the sale, Heartwood discovered that many of the property owners did not owe taxes and brought this fact to the County's attention. (E. 58-59) When the County checked its records, it learned that 331 of the properties purchased by Heartwood at the tax sale had not been eligible for sale—the taxes were paid prior to the date of sale.² The applicable statute neither mentions this particular situation nor specifies that interest should accompany the refund to the purchaser. Under applicable common law principles, the County had to return only the purchase price and the high-bid premium to Heartwood.

I. The circuit court correctly applied the tax sale statute to require the return of only the purchase price and the high-bid premium to a purchaser of property for which taxes had been paid prior to the tax sale.

The law governing tax sales addresses two situations in which a purchaser of property at a tax sale receives expenses and interest on the purchase price as a remedy—when an owner redeems the property, and when a court declares a sale void in the course of a suit to foreclose redemption. Neither situation existed in the present case. Rather, the County mistakenly offered the properties at the tax sale even though the taxes had been paid. The owner did not have to redeem the property and Heartwood could not file an action to

²The County had implemented a new computer program to track tax collections, and the errors apparently occurred during the process of changing systems and customizing the program to meet the County's needs. (E. 57-58)

foreclose the right of redemption, so the remedies associated with these actions never became available to Heartwood. Absent a clear statutory provision that provides a remedy, common law remains in effect.

The authority to provide for the collection of taxes includes the ability to determine which properties to offer for tax sale.

As a charter county, Montgomery County exercises the express powers delineated by State law. *See* Md. Const. art. XI-A § 2; Md. Ann. Code art. 25A (1998). Among those powers, the County has the ability “[t]o provide for the prompt collection of all taxes due the county; and for the sale of real estate, as well as leasehold and personal property, for the payment of the same.” Md. Ann. Code art. 25A, § 5(O). State law also establishes the process through which the tax collector may sell property within the county when the taxes are in arrears. Md. Code Ann., Tax-Prop. § 14-808 (2001). The process specifically authorizes the tax collector to set the terms for conducting the tax sale. Md. Code Ann., Tax-Prop. § 14-817(a)(4). County law requires the director of the department of finance to conduct the tax sale on the second Monday in June at an hour and place specified in a published notice that the department sends to owners of property for which taxes remain unpaid. Montg. Co. Code § 52-36 (1994, as amended).

The express power to identify those properties for which an owner has not paid taxes and to sell those properties at the annual tax sale necessarily includes the authority to declare a sale void. Long ago, the Court of Appeals recognized the limited authority of a tax collector to sell only those properties for which taxes have not been paid. Acknowledging

the tax sale as a method of enforcing the collection of taxes, the Court made clear that “[t]he taxes must necessarily be due before payment can be enforced. . . .” *Condon v. Maryland*, 71 Md. 601, 605, 18 A. 957, 958 (1889). But the tax collector has no power to sell the property unless the taxes remain unpaid—if the taxes are paid prior to the sale, “the whole proceedings of the collector were null and void, and conferred no title on the purchaser.” *Mullen v. Brydon*, 117 Md. 554, 559, 83 A. 1025, 1026 (1912).

At the June 2000 tax sale, the County could offer only those properties for which taxes remained unpaid. Because the taxes on 331 of the properties had been paid prior to the tax sale, those properties were not eligible for sale. Indeed, the County as the tax collector had no authority to sell those properties at the tax sale, making the transaction void.

***State law contemplates a remedy for the purchaser
at a tax sale only when the owner exercises the right of redemption
or when a court declares the sale to be void.***

The General Assembly has accounted for the possibility that an owner may redeem the property at any time before a purchaser obtains a court order and a deed that forecloses the right of redemption. The Legislature also has provided a remedy for those instances in which a purchaser seeks to foreclose the right of redemption, but the court declares the tax sale to be void. In these two situations, the purchaser at the tax sale enjoys remedies beyond the return of the purchase price. The case before the circuit court, however, did not fall within the parameters of either process and Heartwood cannot benefit from the remedies associated with a situation that did not exist.

A property owner can redeem the property following the tax sale upon paying the purchase price, taxes, redemption interest, expenses, and penalties, as long as the purchaser has not foreclosed the right of redemption. Md. Ann. Code, Tax-Prop. §§14-827 and 14-828. In addition to enabling the owner to reclaim the property, the law provides that the purchaser is entitled to a refund of the purchase price, along with redemption interest, plus reimbursement of expenses and attorney's fees. *Id.* at §§ 14-820 and 14-828. The effect of these provisions is that the owner pays an amount that covers the reimbursement to the purchaser. The present case did not create a basis for redemption under the statute, because the owner had paid the taxes before the tax sale—no redemption occurred and none was required.

Heartwood tries to make the situation qualify for the statutory remedy available when a court declares that a tax sale was void. Md. Code Ann., Tax-Prop. § 14-848. But no greater success can be achieved through this section of the statute. Typically, the court becomes involved through a proceeding to foreclose the right of redemption. *Id.* at §14-834. The facts in this case, however, did not enable Heartwood to file an action to foreclose the right of redemption—there was no right to foreclose because the taxes were already paid and the sale was void. *Id.* at § 14-835. Before filing an action to foreclose the right of redemption, Heartwood discovered that the taxes had been paid on several properties prior to the tax sale and notified the County. (E. 58) Upon further review, the County identified 331 of the properties purchased by Heartwood as having already paid the taxes due when the

tax sale occurred. (E. 60-61) This information eliminated the owner's need to exercise the right of redemption and precluded Heartwood's cause of action to foreclose the right of redemption.³

Closer scrutiny of the statute reveals that the language contemplates a court discovering a defect in the sale process that necessitates a new sale. Once a court declares the tax sale to be void and sets it aside, the statute provides for repayment to the certificate holder and mandates that the "collector shall proceed to a new sale of the property. . . .and shall include in the new sale all taxes that were included in the void sale, and all unpaid taxes that accrued after the date of sale declared void." *Id.* at § 14-848. Nothing in the statutory language addresses the facts in this case, but rather, the statute assumes that the taxes remain unpaid.

This construction is consistent with case law. The Court of Appeals has long recognized that collection of taxes through foreclosure requires that the taxes be due and in arrears. *See Condon v. Maynard*, 71 Md. at 605, 18 A. 958. No title passes to a purchaser if the taxes were paid prior to the tax sale. *Mullen v. Brydon*, 117 Md. at 559, 83 A. at 1026. Even well after foreclosure proceedings, the Court has recognized the nullity of a tax sale when the taxes were paid before the sale. In *Jannenga v. Johnson*, the Court vacated a purported sale where the purchaser failed to comply with the notice Rules. 243 Md. 1, 220

³The complaint was for declaratory judgment and for judgment that the tax sales were void. (E. 9) The averment that the property had not been redeemed ignored the fact that redemption was not possible because no taxes were unpaid or overdue. (E. 21)

A.2d 89 (1966). In a concurring opinion, a member of the Court emphasized the absence of legislative intent to authorize “a sale of property for taxes that had been paid before the sale was made.” 243 Md. at 8, 220 A.2d at 93. In fact, the invalidity of the sale may be raised in a collateral attack. *See Bugg v. State Roads Commission*, 250 Md. 459, 243 A.2d 511 (1968).

When the taxes have been paid before the tax sale, the sale is a nullity. A court need not declare the sale void and cannot order a new sale of the property. The more appropriate situation requiring a judicial declaration that a sale was void under Md. Code Ann., Tax-Prop. § 14-848 occurs when notice was improper, the property description was incorrect, or the tax was calculated incorrectly. *See Ginnavan v. Silverstone*, 246 Md. 500, 506, 229 A.2d 124, 127 (1967); *United States v. General Douglas MacArthur Senior Village, Inc.*, 366 F. Supp. 302, 305 (E.D.N.Y. 1973). The examples given by Heartwood further illustrate the difference between a judicial declaration that a sale was void and must be repeated, and a sale that was a nullity and need not be repeated—a flawed description of the property, sale of a property not listed in the notice of sale, and a sale of property when an owner is in bankruptcy reflect instances in which the taxes remain due and in arrears. In the present case, however, the taxes on the 331 properties were paid before the tax sale, making the sale a nullity and obviating the need for a new sale.

***Principles of statutory construction support
the circuit court’s interpretation of the law.***

General principles of statutory construction require that a statute be given its plain meaning and that it be read in context to effectuate the intent of the Legislature. *Armstead v. State*, 342 Md. 38, 56, 673 A.2d 221, 229 (1996). The interpretation given must use common sense to avoid illogical or unreasonable conclusions. *Frost v. State*, 336 Md. 125, 137, 647 A.2d 106, 112 (1994). Moreover, all words of a statute must be given effect and no portion of it may be rendered “meaningless, surplusage, superfluous, or nugatory.” *Jung v. Southland Corp.*, 351 Md. 165, 177, 717 A.2d 387, 393 (1998) (citations omitted). In construing the language, however, the court will “neither add nor delete words in order to give the statute a meaning not otherwise communicated by the language used. . . .” *Blind Industries v. Department of General Services*, 371 Md. 221, 231, 808 A.2d 782, 788 (2002). And the court will avoid forced or subtle interpretations of the law. *Caffrey v. Liquor Control*, 370 Md. 272, 292, 805 A.2d 268, 279 (2002).

Despite these established principles, Heartwood asks this Court to award it the redemption rate of interest (20%) on the purchase price, plus expenses and attorney’s fees, “as if” the owners of the properties had redeemed their interests. As a fall-back position, Heartwood then argues that the situation in which a court declares the sale void (usually for faulty notice or a defect in the process) is the closest to the present facts and should apply to give Heartwood relief. Neither argument satisfies the statutory construction principles adhered to by the appellate courts of Maryland.

As a practical matter, the right of redemption cannot arise if the taxes have been paid, because redemption includes payment of taxes, interest, and attorney's fees. Md. Code Ann., Tax-Prop. §§ 14-827 and 14-828. While the statute addressing a judicial determination that the sale was void suggests broad application, the plain language of the section dispels Heartwood's claim of entitlement to that remedy. By providing that a new sale must follow a judicial declaration of a void sale, the statute indicates that the taxes remain unpaid. *Id.* at § 14-848. This makes the section compatible with the redemption provision, because in each instance, the taxes had not been paid at the time of the tax sale. If the taxes were paid after the sale, the redemption section applies. *Id.* at § 14-828. But if the court declares the sale void and orders a new sale, the inference is that the taxes remain unpaid.

The earlier versions of the tax law do not yield any support for Heartwood's position either. Heartwood's continued assertion that an error in the sale triggers interest ignores the language in the statute that has existed since 1943 and requires the collector to conduct a new tax sale and to collect the taxes due. By disregarding this language, Heartwood violates the statutory construction principle that requires all portions of the statute to have meaning.

The Legislature's intent that the law "be liberally construed as remedial legislation" does not allow a court to apply the statute to the facts "as if" they satisfy the statute or because they are "close enough" for the claimant's liking. *See* Md. Code Ann., Tax-Prop. § 14-832. The General Assembly identified its intent and purpose to encourage foreclosure of the right of redemption as a means of improving the marketability of property sold at tax

sales. *Id.* See also *Scheve v. Shudder, Inc.*, 328 Md. 363, 369, 614 A.2d 582, 585 (1992). Accord *Lippert v. Jung*, 366 Md. 221, 230, 783 A.2d 206, 211 (2001). This goal does not allow distortion of the plain language of the statute to include a situation where the taxes were never in arrears and the sale was a nullity.

Logically, the statute can apply only when the taxes remain unpaid. If the court discerns a mistake in the property description, the notice, or the calculation of the taxes during a suit to foreclose the right of redemption, it follows that a new sale will be ordered. The remedies available in these circumstances attempt to return the parties to their original positions. The the statute does not purport to provide a profit to a purchaser of property at a defective tax sale. To read the statute to encompass a sale that should not have occurred because the taxes were paid, defies common sense. Heartwood's construction of the statute fails to comply with Maryland's statutory construction principles.

Absent a statutory remedy, caveat emptor applies.

Absent statutory authorization, no entitlement to interest exists. See *MPTH Associates v. Department of Finance*, 308 Md. 674, 521 A.2d 757 (1987). In fact, common law did not recognize a right to a refund of taxes mistakenly paid. *Lady v. Prince George's County*, 43 Md. App. 99, 102, 403 A.2d 1277, 1279 (1979). To alter the common law, a statute must expressly do so, not by implication. *Hardy v. State*, 301 Md. 124, 131, 482 A.2d 474, 478 (1984) (citations omitted).

At common law, “[a] purchaser at a tax sale, buying, as he does, property from a person who is not the owner of it, comes strictly and rigidly within the rule of ‘*caveat emptor.*’” *Hamilton v. Valiant*, 30 Md. 139, 140 (1869). The purchaser had the obligation to make sure the proper procedures were followed and that the tax collector had performed the requisite duties for a tax sale, and could not recover damages for inadequacies in the process. *Id.* at 141. The General Assembly addressed the most common situations that could result in harm to a purchaser at a tax sale—redemption by the property owner or a court declaring the sale void based on some defect in the process that requires a new sale. Md. Code Ann., Tax-Prop. §§ 14-828 and 14-848. But the statute does not provide a specific remedy for a tax sale made in error and invalidated by the tax collector as void because the taxes were never in arrears.

The circuit court properly declined to grant the relief Heartwood requested, because State law provides interest, expenses, and attorney’s fees only in two specific situations. Neither redemption of the property nor a court declaration that the sale was void occurred in the current case. The circuit court properly invoked the common law doctrine of *caveat emptor* and this Court should affirm that decision.

II. The circuit court properly ordered Heartwood to return the 8% interest that the County paid on the purchase price, because the law does not provide this additional recovery to a purchaser in a void tax sale.

When the County refunded the purchase price and the high-bid premium, it also paid 8% interest to Heartwood. While interest, expenses, and attorney’s fees form part of the

remedy when an owner exercises the right of redemption, or when a court declares the sale void, neither situation occurred in this case. The payment of interest derives solely from statute, so the circuit court correctly ordered Heartwood to return the interest to the County based on the absence of a statutory remedy for the circumstances of this case.

The court cannot rewrite the law to avoid a harsh result.

The plain language of the statutes that provide reimbursement of expenses and interest to a tax-sale purchaser relate to very limited situations—either redemption by the owner or a judicial order in an action to foreclose the right of redemption. The statute remains silent regarding the situation that occurred here—the properties were not eligible for purchase at the tax sale, because the taxes were paid before the sale and the tax collector declared the certificates void.

When construing a statute, the court will not place language in the law that the Legislature did not include simply to avoid a harsh result. *Leppo v. State Highway Administration*, 330 Md. 416, 423, 624 A.2d 539, 543 (1993) (citations omitted). And when the statute includes specific exceptions or exclusions, the court will avoid reading additional items into the statute. *Id.* Rather, the court reasonably may infer that the absence of a clear remedy reflects consideration and rejection of a remedy for the situation that occurred in this case. *See Philip Electronics North America v. Wright*, 348 Md. 209, 223, 703 A.2d 150, 156 (1997).

While Heartwood would like the tax sale statute to ensure a beneficial return on its investment in every instance,⁴ the statute does not do so. In an ordinary case, if a purchaser does not file a complaint to foreclose the right of redemption within two years of the date of the certificate of sale, the certificate becomes void and the purchaser forfeits the purchase price and the high-bid premium. Md. Code Ann., Tax-Prop. § 14-833. And under the voluntary payment rule, a mistaken payment of taxes or other government fees does not support a common law action to recover the amount mistakenly paid. *See Halle Development, Inc. v. Anne Arundel County*, 371 Md. 312, 322, 808 A.2d 1280, 1286-1287 (2002) (citations omitted). Instead, the Court of Appeals has made clear that the individual may seek a refund only if a statutory right to do so exists. 371 Md. at 322-324, 808 A.2d at 1286-1287.

The absence of a statutory provision addressing the current case resulted in a much less severe outcome than may occur in other instances. Heartwood received its purchase price and high-bid premium once the error was discovered. The statute simply does not provide Heartwood with interest, expenses, or attorney's fees in this situation. Although Heartwood would have this Court make an exception, the circuit court properly refused to do so by holding that Heartwood was entitled only to the return of the purchase price and the high-bid premium, but no additional interest, expenses, or attorney's fees.

Equitable estoppel does not apply to a mistaken

⁴Heartwood delineated the substantial profit it anticipated from the purchases at tax sale in its complaint. (E. 16)

application of a clear law.

The concept of equitable estoppel does not provide the relief Heartwood seeks. Essentially, Heartwood contends that the doctrine should prevent the County from recovering the interest paid on the refund of the purchase price. Yet, the court has not applied equitable estoppel to a situation in which a government entity misinterprets a clear law. Rather, the doctrine applies only when a misconstrued provision is ambiguous or when a party has acquired vested rights.

The Court of Appeals explained this approach in *Permanent Financial Corp. v. Montgomery County*, 308 Md. 239, 518 A.2d 123 (1986). The County had issued building permits and construction proceeded. When the County conducted inspections, it discovered that the building exceeded the height limitations for the zone, intruded on the setbacks, and exceeded the floor area ratio. The Court addressed each violation separately, beginning with the height restriction. The zoning ordinance allowed additional height for nonhabitable structures and had consistently applied the provision to permit mechanical structures and limited office space in addition to the basic structure. 308 Md. at 246, 518 A.2d at 126. The ambiguous language of the ordinance regarding the height of the building, combined with the department's longstanding practice, led the Court to conclude that it would be inequitable to require removal of the additional floor. 308 Md. at 252-253, 518 A.2d at 130. The Court applied estoppel only to this violation.

Reviewing the other issues, the Court made plain that estoppel did not apply to allow the County to act in violation of the law. Neither the floor area ratio or the setback requirement suffered from any ambiguity, so the County was permitted to correct those deficiencies. *Id.* at 254-256, 518 A.2d at 130-131. And subsequent discussions have agreed that, when a law is clear, the County can correct the mistaken act. *Marzullo v. Kahl*, 366 Md. 158, 195, 783 A.2d 169, 190-191 (2001).

The present case does not involve an ambiguous statute, nor has the County engaged in a longstanding practice of interpreting the tax-sale statute to include a situation in which the sale was void from its inception. Heartwood knew the risks associated with purchases of property at tax sale and cannot realistically argue that the Legislature intended a profit in these unusual circumstances.

CONCLUSION

The Legislature provided remedies to tax sale purchasers in two situations and chose not to address the circumstances of this case. Heartwood participated in the tax sale at its own risk and was entitled only to the return of the purchase price and the high-bid premium. Absent a statute authorizing interest, expenses, and attorney's fees when the taxes were paid before the tax sale, the circuit court properly declared that the County had to return only the

purchase price and the high-bid premium and that Heartwood had to return the interest the County mistakenly paid. This Court should affirm that decision.

Respectfully submitted,

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Statement pursuant to Maryland Rule 8-504(a)(8): This brief was prepared with proportionally spaced type, using Times New Roman font and 13pt type size.

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Md. Const. art. XI-A § 2. General Assembly to provide grant of express powers; extension, modification, etc., of such powers.

The General Assembly shall by public general law provide a grant of express powers for such County or Counties as may thereafter form a charter under the provisions of this Article. Such express powers granted to the Counties and the powers heretofore granted to the City of Baltimore, as set forth in Article 4, Section 6, Public Local Laws of Maryland, shall not be enlarged or extended by any charter formed under the provisions of this Article, but such powers may be extended, modified, amended or repealed by the General Assembly.

Excerpts of Maryland Annotated Code:

Art. 25A, § 5 (O), *Assessments, Levy and Collection of Taxes.*

To direct the class or subclass of improvements on land and personal property which shall be made subject to the county tax levy, and to provide for the levy thereupon and upon the value of land in accordance with Article 15 of the Declaration of Rights of the Constitution of Maryland as amended, of any sum which may be necessary to pay and discharge the principal and interest of any loan which may heretofore have been obtained, or which may hereafter be obtained by such county, according to law, and to create a sinking fund to meet the liabilities thus incurred, and levy upon the property so subject to taxation from time to time such sums as may be necessary to provide therefor; as well as to collect from such property so subject to the levy such sums as may be necessary for the support and maintenance of the county government.

To provide for the prompt collection of all taxes due the county; and for the sale of real estate, as well as leasehold and personal property, for the payment of the same.

To rectify errors in the assessment of property; to provide for the reduction or abatement of assessments improperly made, and for the reimbursement of moneys paid in consequence of such errors.

To levy and collect taxes for the organization, operation, maintenance of libraries, fire and ambulance services, and other municipal services and to authorize the purchase, sale, construction, maintenance, and operation of all real and personal property necessary or incidental to such services, and to establish, modify, amend and abolish special taxing areas for any of the purposes enumerated in this article, except that nothing herein contained shall be construed to permit the modification or abolition of existing special taxing areas performing municipal services, (other than furnishing fire protection or library service) and

governed or administered by a citizen's committee or a commission elected or appointed independently of the county council.

To levy and collect taxes to provide for the payment of additional retirement or disability benefits to such former employees of the county as may, in the opinion of the county council, be entitled to receive such additional benefits.

Tax Property Article (2001):

§ 14-808. Sale by collector; exceptions.

- (a) *In general.* The collector shall proceed to sell and shall sell under this subtitle, at the time required by local law but in no case, except in Baltimore City, later than 2 years from the date the tax is in arrears, all property in the county in which the collector is elected or appointed on which the tax is in arrears. The collector is required to sell, but failure of the collector to sell within the 2-year period does not affect the validity or collectibility of any tax, or the validity of any sale thereafter made.
- (b) *Exception - Calvert County.* In Calvert County the collector shall proceed to advertise and sell any real property immediately after the tax is delinquent for a period of 1 year.
- (c) *Same - St. Mary's County.* In St. Mary's County, the Board of County Commissioners shall set by resolution the date and time of a tax sale.
- (d) *Same - Garrett County.* In Garrett County, the Board of County Commissioners shall set by resolution the date and time of a tax sale.

§ 14-817. Sale at public auction.

- (a) *Conduct of sale.*

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(4) The conduct of the sale shall be according to terms set by the collector, and published with a reasonable degree of specificity in the public notice of the tax sale, to ensure the orderly functioning of the public auction and the integrity of the tax sale process, including requirements that potential bidders:

- (i) establish their eligibility for bidding by presenting evidence of the legal existence of the bidding entity that is satisfactory to the collector;
- (ii) limit their representation at a tax sale to no more than a single agent per bidding entity; and
- (iii) refrain from any act, agreement, consent, or conspiracy to suppress, predetermine, rig, or fix the bidding at the sale.

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§ 14-820. Certificate of sale - In general.

(a) *Certificate to be delivered by collector to purchaser; contents.*- The collector shall deliver to the purchaser a certificate of sale under the collector's hand and seal, or by the collector's authorized facsimile signature, acknowledged by the collector as a conveyance of land, which certificate shall set forth:

- (1) that the property described in it was sold by the collector to the purchaser;
- (2) the date of the sale;
- (3) the amount for which the property was sold;
- (4) the total amount of taxes due on the property at the time of sale together with interest, penalties and expenses incurred in making the sale;

- (5) a description of the property in substantially the same form as the description appearing on the collector's tax roll. If the property is unimproved or has no street number, and the collector has procured a description of the property from the county or municipal corporation surveyor, this description shall be included in the certificate of sale. In Garrett County a copy of the description as required by §§ 14-813(f) of this subtitle, as that section relates specifically to Garrett County, shall be included in the certificate of sale;

- (6) a statement that the rate of redemption is 6% a year, except as provided in subsection (b) of this section;

- (7) the time when an action to foreclose the right of redemption may be instituted; and

- (8) (i) that the certificate will be void unless foreclosure proceedings are brought within 2 years from the date of the certificate; or

- (ii) that, unless foreclosure proceedings are brought within 3 months from the date of the certificate to any abandoned property in Baltimore City sold under §§ 14-817 (c) (1) of this subtitle with a minimum bid less than the lien amount, the certificate:

- 1. is void as to a private purchaser; and
 - 2. reverts to the Mayor and City Council for a period of 2 years from the date of the tax sale.

(b) Rate of redemption. The rate of redemption is 6% a year except:

* * *

(15) in Montgomery County the rate is 6% a year or as fixed by a law of the County Council;

* * *

§ 14-827. Right of redemption.

The owner or other person that has an estate or interest in the property sold by the collector may redeem the property at any time until the right of redemption has been finally foreclosed under the provisions of this subtitle.

§ 14-828. Required payments; interest rate on redemption; notice to holder of certificate; execution of certificate.

(a) *Payments to collector.* If the property is redeemed, the person redeeming shall pay the collector:

- (1) the total price paid at the tax sale for the property together with interest;
- (2) any taxes, interest, and penalties paid by any holder of the certificate of sale;
- (3) any taxes, interest, and penalties accruing after the date of the tax sale;
- (4) unless the party redeeming furnishes the collector a release or acknowledgment executed by the plaintiff or holder of the certificate of sale that all actual expenses or fees under §§ 14-843 of this subtitle have been paid to the plaintiff or holder of the certificate of sale, any expenses or fees for which the plaintiff or the holder of a certificate of sale is entitled to reimbursement under §§ 14-843 of this subtitle; and

- (5) for vacant and abandoned property sold under §§ 14-817 of this subtitle for a sum less than the amount due, the difference between the price paid and the unpaid taxes, interest, penalties, and expenses

(b) *Interest rate on redemption.* The rate of interest on redemption under subsection (a) of this section shall be set under §§ 14-820 of this subtitle computed from the date of the tax sale to the date of the redemption payment.

(c) *Notice to holder of certificate; certificate of redemption.* On receipt of the proper amount, the collector shall notify the holder of the certificate of sale that the property has been redeemed and that on surrender of the certificate of sale all redemption money excluding taxes received by the collector will be paid to the holder. For the purposes of this section, the collector is authorized to conclusively presume that the original purchaser at the tax sale is the holder of the certificate of sale, unless the collector receives a written notice of an assignment of the certificate of sale that gives the collector the name and address of the assignee. Upon request, the collector shall execute and deliver to the person redeeming the property a certificate of redemption which may be recorded among the land records of the county in which the land is located, and when recorded shall have the same effect as a release of a mortgage.

§ 14-832. Construction of sections.

The provisions of §§ 14-832.1 through 14-854 of this subtitle shall be liberally construed as remedial legislation to encourage the foreclosure of rights of redemption by suits in the circuit courts and for the decreeing of marketable titles to property sold by the collector.

§ 14-833. Complaints by holders of certificates of sale to foreclose right of redemption.

(a) *Time for filing generally.* Except as provided in subsections (e) and (f) of this section, at any time after 6 months from the date of sale a holder of any certificate of sale may file a complaint to foreclose all rights of redemption of the property to which the certificate relates.

(b) *Continuation of right to redeem.* The right to redeem shall continue until finally barred by decree of the circuit court in which the foreclosure proceeding is filed.

(c) *Void certificate - Time limitations.*

(1) The certificate is void unless a proceeding to foreclose the right of redemption is filed within 2 years of the date of the certificate of sale.

(2) In Baltimore City a certificate for abandoned property sold under §§ 14-817 (c) of this subtitle with a minimum bid less than the lien amount reverts to the Mayor and City Council and is void as to the private purchaser at tax sale unless:

(i) a proceeding to foreclose the right of redemption is filed within 3 months of the date of the certificate of sale; and

(ii) unless the holder is granted an extension by the court due to a showing of extraordinary circumstances beyond the certificate holder's control, the holder secures a decree from the circuit court in which the foreclosure proceeding was filed within 18 months from the date of the filing of the foreclosure proceeding.

(d) *Same - Cessation of holder's right, title, and interest.*

(1) If a certificate is void under subsection (c) of this section, then any right, title, and interest of the holder of the certificate of sale, in the property sold shall cease and all money received by the collector on account of the sale shall be deemed forfeited, and shall be applied by the collector on the taxes in arrears on the property.

(2) If a certificate for abandoned property reverts to the Mayor and City Council of Baltimore City under this section, the Mayor and City Council may:

(i) file a foreclosure proceeding in its own name; or

(ii) 1. resell the certificate; and

2. apply all money received on account of the sale to any outstanding balance remaining after the sale on the tax debt owed by the previous owner of the abandoned property.

(e) *Substantial repairs to property.* If any building or structure is sold and purchased under this subtitle, and the appropriate government agency certifies that the particular building or structure involved requires, or within 6 months shall require, substantial repairs to comply with the applicable building code:

(1) the holder of any certificate of sale may at any time after 60 days from the date of sale file a complaint to foreclose all rights of redemption of the property to which the certificate relates; and

(2) the certificate of the appropriate government agency shall be a part of the complaint to foreclose the rights of redemption.

(f) *Property in Baltimore City.* The holder of a certificate of sale for abandoned property in Baltimore City sold under §§ 14-817 (c) of this subtitle with a minimum bid less than the lien amount may file a complaint to foreclose all rights of redemption in the property at any time after the date of sale.

§ 14-834. Jurisdiction of court.

The circuit court, on the filing of a complaint to foreclose the right of redemption, has jurisdiction to give complete relief under this subtitle, in accordance with the general jurisdiction and practice of the court, and with all laws and rules of court that relate to the circuit courts for the county in which the property is located, except as otherwise provided in this subtitle, to bar all rights of redemption and to foreclose all alienations and descents of the property occurring before the judgment of the court as provided in this subtitle and all liens and encumbrances on the property, except property taxes that arise after the date of sale, and to order an absolute and indefeasible estate in fee simple or leasehold to be vested in the holder of the certificate of sale.

§ 14-835. Form of complaint.

(a) *In general.* A person shall file a complaint in the circuit court for the county in which the land is located, that states:

- (1) the fact of the issuance of the certificate of sale;
- (2) a description of the property in substantially the same form as the description appearing on the certificate of tax sale and, if the person chooses, any description of the property that appears in the land records;
- (3) the fact that the property has not been redeemed by any party in interest;
- (4) a request for process to be served on the defendants named in the complaint;
- (5) a request for an order of publication directed to all parties in interest in the property;
- (6) a request that the court pass a judgment that forecloses all rights of redemption of the defendants and any other person having any interest in the property;
- (7) a description of the amount necessary for redemption including the amount paid out at the tax sale; and
- (8) for vacant and abandoned property in Baltimore City sold to Baltimore City for a sum less than the amount due under §§ 14-817 of this subtitle, a request that the court pass a judgment for the City and against the person liable for the taxes prior to the sale in the amount of the unpaid taxes, interest, penalties, and expenses otherwise due in a tax sale.

(b) *Certificate of sale.* The certificate of sale issued by the collector to the purchaser or a photostatic copy of the certificate of sale shall be attached to the complaint and shall be made part of the complaint.

§ 14-848. Judgment declaring sale void.

If the judgment of the court declares the sale void and sets it aside, the collector shall repay the holder of the certificate of sale the amount paid to the collector on account of the purchase price of the property sold, with interest at the rate provided in the certificate of tax sale, together with all taxes that accrue after the date of sale, which were paid by the holder of the certificate of sale or the predecessor of the holder of the certificate of sale, and all expenses properly incurred in accordance with this subtitle. If the collector paid the claims

of any other taxing agency, the collector is entitled to a refund of the claim from the taxing agency with interest. The collector shall proceed to a new sale of the property under this subtitle and shall include in the new sale all taxes that were included in the void sale, and all unpaid taxes that accrued after the date of sale declared void.

Montgomery County Code (1994, as amended)

Sec. 52-36. Sale of property for taxes generally.

At any time after March 1 next succeeding the date taxes are due and unpaid, payment may be enforced by sale, as provided by law. The director of finance shall make or cause to be made up a list of all taxes which are due and unpaid, which shall contain the amount thereof, the interest and penalties thereon, the property affected thereby, the name of the owner thereof as such name appears on the assessment records of the county, a brief description of the property sufficient to identify the same and such references to conveyances or other records of title as will identify the property. To such list shall be appended a notice that if taxes, penalties and interest thereon are not paid on or before the second Monday in June next ensuing, together with the expenses of sale allowable by state law, the director of finance will, commencing on the second Monday in June at an hour and place specified in such notice, offer or cause to be offered for sale to the highest bidder upon the terms provided by public general law each and every parcel of property contained in such notice. Such notice and list shall be published in accordance with the applicable provisions of the public general laws, and the last publication thereof shall appear on or before the second Monday in June. Commencing on the second Monday in June, the director of finance shall proceed to sell or cause to be sold at auction to the highest bidder all such properties upon which the taxes are due and unpaid; but no such property shall be sold for a sum less than the total amount provided by applicable public general law. In addition to the expenses of sale allowable by state law and such interest and penalties as provided for elsewhere in this chapter, the director of finance shall impose on each parcel of property published a penalty charge of twenty dollars (\$20.00).