

STATE OF MICHIGAN
COURT OF APPEALS

RANDY BIDLOFSKI,

Plaintiff/Counter-Defendant-
Appellee,

v

ENTERPRISE REALTY OF MICHIGAN, INC.,

Defendant/Counter-Plaintiff/Third-
Party Plaintiff-Appellant,

v

STATE OF MICHIGAN,

Third-Party Defendant-Appellee,

and

CITY OF DETROIT, WENDELL FLYNN and
MARGARET FLYNN,

Third-Party Defendants.

Before: Cooper, P.J., and Neff and Borrello, JJ.

PER CURIAM.

Enterprise Realty of Michigan, Inc. (“Enterprise”), appeals as of right, challenging the entry of a judgment quieting title to real property in favor of Randy Bidlofski (“Bidlofski”). We affirm.

This appeal stems from an action to quiet title between two purchasers of the same piece of real property, Bidlofski and Enterprise. The parties concur that transfer of this property, pursuant to a tax foreclosure, was procedurally correct and in compliance with relevant statutory mandates until the transfer of the subject property by the city of Detroit to the state of Michigan, via a quit claim deed, in 2001 following a request by the state of Michigan to reconvey the property because of a potential failure to issue required notification in accordance with MCL 211.131e. Enterprise disputes the legitimacy of this transfer of title and contends that its right to the property is superior to that of Bidlofski.

UNPUBLISHED

June 20, 2006

No. 266777

Wayne Circuit Court

LC No. 04-406750-CH

A trial court's decision regarding a motion for summary disposition is reviewed de novo. *Sotelo v Grant Twp*, 470 Mich 95, 101; 680 NW2d 381 (2004). This Court also reviews equitable actions to quiet title de novo, but the court's factual findings are reviewed for clear error. *Killips v Mannisto*, 244 Mich App 256, 258; 624 NW2d 224 (2001). Any underlying issues of statutory construction are determined on a de novo basis. *Deutsche Bank Trust Co Americas v Spot Realty, Inc*, 269 Mich App 607, ___; ___ NW2d ___ (Docket No. 255659, issued December 15, 2005), slip op, p 3.

The parties have stipulated to the applicability of MCL 211.131e, before its amendment by 1999 PA 123. The version of the statute in effect at the time of foreclosure for this property, 1993 PA 291, provided, in relevant part:

The redemption period on those lands deeded to the state pursuant to section 67a that have a state equalized valuation of \$1,000.00 or more shall be extended until owners of a significant property interest in the lands have been notified of a hearing before the department of treasury. [MCL 211.131e(1).]

This is significant because of the discovery by the state of Michigan that an unidentified leaseholder had not received proper notice to provide an opportunity for redemption of the subject property. Based on the recognition that “[t]he notice provisions contained in the [GPTA] are designed to ensure that those with an interest in the subject property are aware of the foreclosure proceedings so that they make take advantage of their redemption rights,” *In re Petition by Wayne Co Treasurer for Foreclosure of Certain Lands for Unpaid Prop Taxes*, 265 Mich App 285, 292-293; 698 NW2d 879 (2005), the state of Michigan requested that the city of Detroit reconvey the property. The parties do not dispute that a leaseholder is deemed to maintain a significant interest in property and, thus, is entitled to notice. *Dow v State of Michigan*, 396 Mich 192, 210-211; 240 NW2d 450 (1976).

Enterprise first argues that the redemption period was not properly extended. The amendment of MCL 211.131e, by 1996 PA 476 and 1999 PA 123, altered the language of the statute to indicate an entitlement to notice and extension of the redemption period to “owners of a recorded property interest in the property,” MCL 211.131e(1); here the asserted leasehold interest in the subject property was not recorded. Enterprise asserts, based on expiration of the statutory redemption period and the lack of a recorded interest of the purported leaseholder, that there existed no basis for extension of the redemption period through provision of notice to the unidentified leaseholder. However, amendment of the statutory language is ultimately irrelevant to the resolution of this dispute.

Enterprise's first argument is unsustainable and does not suffice to reverse the ruling by the trial court. Had the opposing party been the purported leaseholder and had the leaseholder been afforded the arguably improper opportunity to extend the period for redemption of the subject property, Enterprise might have framed a legitimate issue. However, the opposing party is not an individual who redeemed the property, but rather a good faith purchaser.

Enterprise next argues that reconveyance of the property by an employee of the city of Detroit, pursuant to a City Council resolution, was unauthorized and constituted an ultra vires act. The city's Community and Economic Development Department requested the Detroit City Council to provide it with the authority to issue quit claim deeds to reconvey properties to the

state of Michigan when difficulties arise in assuring clear title based on the failure of the state to “follow guidelines established by the Michigan Supreme Court for the notification of parties of interest of the impending tax reversion.” Detroit City Council Resolutions, January 20, 1982, p 189.

As a result of this request, the Detroit City Council resolved:

That the Community and Economic Department Director be and is hereby authorized to issue a Quit Claim Deed to the State of Michigan Department of Natural Resources for any and all tax-reverted properties where such action is necessary to correct title problems as set forth in the foregoing communication. [Detroit City Council Resolutions, January 20, 1982, p 189.]

This resolution effectively provided an exception to Detroit Ordinance, § 14-8-7, which required city council approval of all real property sales. Enterprise contends that the reconveyance of the subject property to the state of Michigan was an ultra vires act because it was only for the purpose of providing notice, and not “to correct title problems.”

Enterprise’s assertion that reconveyance of the deed to the state of Michigan was an ultra vires act is unsustainable. Notably, the Detroit City Council Resolution was specifically intended to deal with problems that had arisen from the failure of the state to “follow guidelines established by the Michigan Supreme Court for the notification of parties of interest of the impending tax reversion.” Detroit City Council Resolutions, January 20, 1982, p 189. This is precisely why the state sought reconveyance of the subject property – because of the perceived failure to provide adequate notice to persons with a leasehold interest in the property. The fact that the unidentified leaseholder potentially retained a right of redemption impacted conveyance of title to the subject property, justifying the transfer in accordance with the Detroit City Council Resolution. *Brandon Twp v Tomkow*, 211 Mich App 275, 284; 535 NW2d 268 (1995); *City of Detroit v John J Blake Realty Co*, 144 Mich App 432, 437; 376 NW2d 114 (1984).

Enterprise’s challenge to the authority of the city’s agent to issue the disputed quit claim deed cannot be sustained. An agent’s apparent authority is determined by the statements or conduct of the principal, which would cause a party to justifiably believe that the agent is acting within the apparent scope of his authority or powers. *Michigan Nat’l Bank v Kellam*, 107 Mich App 669, 679; 309 NW2d 700 (1981) (citation omitted). The failure of a principal to check an agent’s assumption of authority is sufficient to establish justifiable reliance on the agent’s apparent authority. *Id.* The history of interaction regarding the issuance of quit claim deeds in the manner utilized in this case resulted in the apparent authority of the city’s agent to issue the disputed deed because neither party asserts that the city of Detroit routinely required the investigation of actual impairment of title before issuing such deeds following request by the state of Michigan.

Notably, Enterprise does not allege any type of fraud or misconduct by the state of Michigan in seeking to obtain title to the subject property. The transfer of the property was completely voluntary by the city of Detroit following the state’s request. As recognized by the trial court, the most important factor was the simple fact that the city of Detroit, in issuing the deed re-conveying the subject property to the state of Michigan did not retain any interest that it could legitimately convey to Enterprise.

The chain of title in this instance is clear and leads to Bidlofski. The parties do not dispute that the state of Michigan initially obtained proper title to the property before selling this parcel to the city of Detroit. The city subsequently, and on a voluntary basis, quit claimed the property back to the state of Michigan, which sold it to Bidlofski. The state recorded the deed that reconveyed the property on December 14, 2001. As such, the city of Detroit retained no interest in the property which it could legitimately convey to Enterprise in 2002. In accordance with MCL 565.3, the execution of a quit claim deed conveys all the interests in a property the grantor can lawfully convey. The state of Michigan recorded its deed on December 14, 2001, almost one year before the city of Detroit attempted to convey its purported interest in the property a second time to Enterprise. The state obtained title to the property and, as a result, the quit claim deed executed by the city of Detroit to Enterprise is void because the city retained no interest in the subject property which it could legitimately convey. Hence, Enterprise obtained no interest in the property from this second conveyance. Finally, Enterprise's assertion that Bidlofski cannot be a bona fide purchaser because he obtained only a quit claim deed at a "scavenger sale" is in error based on the language of MCL 565.29.

Affirmed.

/s/ Jessica R. Cooper

/s/ Janet T. Neff

/s/ Stephen L. Borrello