

[Cite as *Tax Ease Ohio IV, L.L.C. v. Unknown Heirs of Payne*, 2023-Ohio-2699.]

IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
MONTGOMERY COUNTY

TAX EASE OHIO IV, LLC AKA TAX
EASE OH IV, LLC

Appellees

V.

THE UNKNOWN HEIRS, DEVISEES,
LEGATEES, EXECUTORS, AND/OR
ADMINISTRATORS OF HAROLD W.
PAYNE, JR. AKA HAROLD W. PAYNE
AKA HAROLD PAYNE, DECEASED,
ET AL.

Appellant

.....

C.A. No. 29733

Trial Court Case No. 2022 CV 00956

(Civil Appeal from Common Pleas Court)

OPINION

Rendered on August 4, 2023

BRENT E. RAMBO and BRADLEY C. SMITH, Attorney for Appellee, Ohio Department of Job and Family Services

DAVID T. BRADY, Attorney for appellee, Tax Ease Ohio IV LLC

GARY J. PAYNE, Appellant, Pro Se

TUCKER, J.

{¶ 1} Gary J. Payne appeals pro se from the trial court's judgment entry confirming

a tax-foreclosure sale of his deceased father's home.

{¶ 2} In lieu of a traditional appellate brief, Payne has provided us with a short letter in which he addresses his family history with the home, his father's passing, the circumstances resulting in the tax liens, his efforts to make payments to redeem the home, and his desire to keep the home in his family. We have accepted this letter as Payne's appellate brief.

{¶ 3} While we are sincerely sympathetic to the circumstances Payne describes, his letter identifies no legal grounds for reversing the trial court's confirmation of sale. Accordingly, the trial court's judgment will be affirmed.

I. Background

{¶ 4} On March 3, 2022, plaintiff-appellee Tax Ease Ohio IV, LLC filed a complaint to foreclose on real property located at 3100 Otterbein Avenue in Dayton. Tax Ease sought foreclosure based on liens arising due to its status as the holder of three tax certificates it had purchased from the Montgomery County Treasurer. The home appears to have been owned by Payne's now-deceased father. Payne appeared in the action and filed a pro se answer based on his status as an heir.

{¶ 5} Tax Ease subsequently moved for summary judgment on its complaint. Payne was served with the motion but did not file an opposing memorandum. On July 8, 2022, the trial court sustained Tax Ease's motion and entered a judgment and decree of foreclosure. Thereafter, the property was advertised and sold at a public auction on January 31, 2023. The trial court then filed a February 22, 2023 judgment entry confirming the sale, ordering a new deed, and distributing the proceeds. This appeal followed.

II. Analysis

{¶ 6} Despite the unfortunate circumstances depicted in Payne’s letter, it identifies no legal basis for reversing the trial court’s judgment entry confirming the sale. A trial court’s confirmation of sale is reviewed for an abuse of discretion. *U.S. Bank Natl. Assn. v. Lawson*, 2d Dist. Montgomery No. 29594, 2023-Ohio-1517, ¶ 16. Payne’s letter fails to identify any abuse of discretion here.

{¶ 7} The only conceivable legal issue raised in Payne’s letter concerns his effort to make a payment to Tax Ease to avoid losing the home. Payne contends someone told him in “early February” that the property had been “put up for auction.” Sometime thereafter, he claims to have been told that he had 30 days to pay the delinquent tax amount, which exceeded \$10,000. Payne contends he obtained the funds on February 27, 2023, but was never able to reach anyone at Tax Ease who could accept payment.

{¶ 8} The foregoing issue fails to demonstrate an abuse of discretion in the trial court’s confirmation entry. The allegations in Payne’s letter are not part of the record below. Legally speaking, then, we may not consider them. That fact alone defeats any possible legal argument arising from his allegations.

{¶ 9} We note too that Payne’s letter does not specify when the claimed 30-day window to make a payment began or whether he secured the funds within that time frame. Based on his representations, he appears not to have done so. Payne asserts that he obtained the funds on February 27, 2023, which would have been after the trial court’s February 22, 2023 confirmation of sale.

III. Conclusion

{¶ 10} For the reasons set forth above, the judgment of the Montgomery County Common Pleas Court is affirmed.

.....

WELBAUM, P.J. and EPLEY, J., concur.