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DISTRICT No. 406.
WILSON v. CURB & GUTTER IMPROVEMENT
DISTRICT No. 406.

4-8570

212 S. W. 2d 351

Opinion delivered June 21, 1948.

1. IMPROVEMENT DISTRICTS.—While appellant whose property had been sold for failure to pay benefit assessments intervened asserting his right to redeem from the purchaser of the certificate who purchased before the period for redemption expired, he did not offer to exercise that right.
2. IMPROVEMENT DISTRICTS.—Since there is no statute to the contrary, the improvement district had the right, in the absence of fraud or collusion, to sell the certificates to anyone offering a fair price; and there is no allegation that the price paid was unfair or that the sale was tainted with fraud or collusion.
3. IMPROVEMENT DISTRICTS—RIGHT OF OWNER TO PRIORITY ON SALE.—There is no statute nor any rule of law giving the owner any priority in the purchase of certificate of sale of property for nonpayment of benefit assessments.

Appeal from Pulaski Chancery Court; *Frank H. Dodge*, Chancellor; affirmed.

M. A. Matlock, for appellant.

Sherrill, Cockrill & Wills and *H. M. Trieber*, for appellee.

ROBINS, J. Appellant is the owner of certain vacant lots situated in Curb and Gutter Improvement District No. 406 and Street Improvement District No. 407, of Little Rock.

In appropriate proceedings in the court below the districts obtained decrees of foreclosure on August 14, 1942, against these and other lots on which assessments for the districts had not been paid. Pursuant to these decrees sales were had on August 26, 1942, and the districts purchased the same for delinquent assessments, penalties and costs, the total of which, against appellant's property and the other delinquent property, was \$10,445.25.

On August 15, 1947, appellant filed his interventions in the foreclosure proceedings, alleging that the districts had sold and assigned to appellee Sanders, for \$5,325,

an amount substantially less than the total delinquent assessments, the certificates of purchase issued to the districts, covering the property involved and all other lots foreclosed by the districts. Appellant alleged that this sale, made during the period in which he had a right to redeem from the sale, was an attempt to cut off appellant's right of redemption. Appellant offered to pay into court a sum equal to that paid by said appellee for the certificates of purchase; and he prayed that the assignment of the certificates of purchase be canceled and that the districts be required to accept from appellant the amount tendered in full satisfaction of the delinquent assessments, and to assign the certificates of purchase to appellant.

A demurrer to this intervention was sustained by the lower court and appellant within the time given him to plead further filed an amendment to his intervention.

In this amendment he set up that, in addition to the vacant property described in the original intervention, he owned in said districts another parcel of real estate upon which all the assessments due to the districts had been paid, and that by reason thereof he had an equitable interest in the proceeds of sales made by the district, since all indebtedness due by the district had been paid; that he had been negotiating with the attorney for the district for the purchase, at a discount, of the certificates of purchase covering the property owned by appellant, and that, while no agreement as to the price of the certificates had been reached, he "had requested and been promised a priority and an option to purchase said lots and parcels of land at the minimum price the said improvement district was willing to sell." He further alleged that "as the owner of an equitable interest in the proceeds of any sales . . . he was and is entitled to a priority and an option to purchase at whatever minimum discount price the said improvement district . . . was willing to sell."

Appellant prayed for an order directing said appellee to transfer to appellant the certificates of purchase covering appellant's property upon payment by appel-

certificates of purchase before the expiration of the period of redemption, but he argues that the districts should be required to sell same to the original property owner at the best price it can obtain from a stranger. No court decision or statute is cited in support of this contention, but it is urged "that as a matter of right and equity . . . a stranger to the title should not have a preference in a private sale over the original owner of lots sold."

In the case at bar there is no allegation of fraud or collusion on the part of officials of the districts and said appellee; nor is it alleged that the price paid by said appellee for the certificates of purchase is an unfair one so far as the districts are concerned. Appellant's position is simply: that, as the original owner and as the owner of other property in the districts, appellant is entitled to have the bargain said appellee has made with the districts.

In the absence of any statutory directive to the contrary, the districts had the right, absent fraud or collusion, to sell the certificates of sale to anyone offering a fair price; and there is nothing in the complaint to indicate that the price was unfair or that the sale was tainted with fraud or collusion. The statute does not give the property owner the priority asserted by appellant; and there is no rule of law that accords him any such a right.

The decree of the lower court was correct and is affirmed.
