

No. 1-23-1064

NOTICE: This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

In re Matter of the Application of the County Treasurer)	
)	
NEWLINE HOLDINGS, LLC,)	Appeal from the
)	Circuit Court of
Petitioner-Appellant,)	Cook County
)	
v.)	No. 2021 COTD 003353
)	
ELAINE WILSON AND JAIDAH R. WILSON- TURNBOW,)	The Honorable
)	Maureen Hannon,
)	Judge Presiding.
Respondents-Appellees.)	

JUSTICE TAILOR delivered the judgment of the court.
Presiding Justice Oden Johnson and Justice C.A. Walker concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court properly denied a real estate tax purchaser’s petition to expunge redemption where the redeemer was not a stranger to the property.

¶ 2 I. BACKGROUND

¶ 3 After Walula Saucedo passed away on January 7, 2015, her son, Kenneth Saucedo (Saucedo), inherited the property she owned located at 7549 S. Prairie Avenue in Chicago (Prairie Property). Saucedo did not record the probate deed issued in his name because he could not afford to pay the recording fees. He then fell behind on paying the water bill and property taxes.

¶ 4 On July 16, 2021, Newline Holdings, LLC (Newline) purchased the delinquent property taxes on the Prairie Property for the sum of \$12,032.67. On September 24, 2021, the Circuit Court Clerk notified Saucedo that the Prairie Property had been sold for delinquent taxes and that a petition had been filed for a tax deed, which would transfer title and the right to possession of the property if redemption was not made on or before March 22, 2022. The notice urged Saucedo “to redeem immediately to prevent loss of property.”

¶ 5 Saucedo confided in Elaine Wilson, who he had worked for as a handyman for several decades, explaining to her that he had been unable to pay his water bill and property taxes and asked her for help. On March 14, 2022, Elaine Wilson and her daughter Jaidah R. Wilson-Turnbow (Wilsons) paid a total of \$13,011.09 to the Cook County Clerk to redeem the property. The Wilsons and Saucedo signed a purchase agreement and a tenancy/profit sharing agreement on March 15 and 16, 2022, respectively (collectively the Wilson-Saucedo Agreement), which provided that the Wilsons would buy the Prairie Property from Saucedo, that Saucedo would continue to occupy the property as a tenant while the property was repaired and improved by the Wilsons, and that the property would then be sold with the profits to be split between the Wilsons and Saucedo. Specifically, the Wilson-Saucedo Agreement provided that title to the property would be transferred to the Wilsons in exchange for redemption of all property taxes. It also stated that Saucedo “understands and agrees that the property will be sold upon completion of repairs and improvements” paid for by the Wilsons and that “[p]ayment will be made to [Saucedo] once the home is sold and after all expenses incurred by the Wilsons have been repaid,” with the profit payment split 40% to Saucedo and 60% to the Wilsons.

¶ 6 On March 23, 2022, the Cook County Clerk issued a full payment certificate after the Wilsons paid an additional \$9,231.34. Saucedo then executed a quit claim deed, transferring the

property to the Wilsons. On April 20, 2022, the Wilsons recorded both the probate deed, which transferred the property from the Estate of Walula Saucedo to Kenneth Saucedo, and the deed that transferred the property from Saucedo to the Wilsons.

¶ 7 On July 27, 2022, Newline filed a petition to expunge the redemption, naming the Wilsons as respondents. Newline did not name Saucedo a respondent. Newline alleged that the redemption deposit was not made by a party with a redeemable interest, because it was not made by Walula Saucedo, who owns the subject property. In response, the Wilsons filed documents demonstrating that Kenneth Saucedo inherited the home after his mother, Walula, passed away. The Wilsons also filed their affidavit, in which they explained that they had known Saucedo for decades because he had worked as a handyman for their family. They averred that Saucedo told them he was having financial issues and had been unable to pay his water bill and real estate taxes, and initiated a conversation with them in late 2021 about how they could help him avoid losing his family home. The Wilsons averred they reached an agreement with Saucedo to pay off the delinquent taxes, fix and improve the property, and then sell it and split the proceeds. They noted that they had made a substantial financial contribution to the property, in excess of \$22,000, and stated that they have an economic interest in the property based on an executed written agreement, as well as the fact that they are on title to the property.

¶ 8 Newline continued to argue that the redemption was invalid, additionally asserting that the agreement between the Wilsons and Saucedo violated the Frauds Act (740 ILCS 80/0.01 *et seq.* (West 2022)) and the Mortgage Rescue Fraud Act (765 ILCS 940/1 *et seq.* (West 2022)).

¶ 9 At a hearing on March 31, 2023, the court stated that “the issue for the court is whether the Wilsons *** had an interest on the day that they redeemed the property on March 14.” It noted that the cashier’s check payable to the Cook County Clerk, which the Wilsons obtained on March

11, “indicates that Ms. Wilson and Mr. Saucedo had an agreement.” Newline argued that the court was “presupposing these communications based off of one-sided affidavits and a check issued on March 11th[,]” but the court noted that the Wilsons asserted in their affidavit that an agreement was made before they paid the redemption, and Newline “didn’t counteract that.” The court explained to Newline that “the presumption is in favor of redemption” and that the Wilsons “set forth the lineup of how they had an interest *** before [March] 14th.” It told Newline, “if you want to counteract that, the ball is in your court to do so by asking for discovery or a notice to produce.” The court explained that “whether that takes the form of subpoenaing Mr. Saucedo and Ms. Wilson, you do that.” Over the Wilsons’ objection, the court gave Newline 14 days to conduct additional discovery. The court also found that “the documents that are submitted definitely indicate that there is no violation of the Mortgage Rescue Fraud Act.” It said the statute does not apply because “Wilson as the purchaser is not offering to sell the property back to Kenneth Saucedo or to convey an interest to him. And that is what is required for [its] application.”

¶ 10 On April 14, 2022, Newline filed a motion to compel, asking the court to compel Saucedo to appear for a deposition. In its motion, Newline asserted that it “served [Saucedo] with notice of deposition on April 7, 2023 at 8:20 am via substitute service,” but that Saucedo failed to appear for the deposition. Newline also said it had made “multiple attempts to contact Mr. Saucedo to confirm appearance at the deposition via a phone number obtained through skip trace.” On April 19, 2022, the court entered and continued Newline’s motion to compel until the next hearing, which was scheduled for May 5, 2023, and ordered the Wilsons to appear at the hearing.

¶ 11 At the May 5, 2023, hearing, the court heard evidence from Elaine Wilson and her daughter, Jaidah. Jaidah testified that she and her mother signed the Wilson-Saucedo Agreement on March 15 and 16, 2022, and that the documents were subsequently notarized. Elaine testified

that towards the end of 2021, Saucedo asked if she would help him save his family home. She said they reached an agreement a few weeks before the redemption period lapsed. She said they discussed the details of the agreement so that they would “have an understanding of what he would do and what I would do.” She subsequently had their verbal conversations memorialized in a document. She said Saucedo did not have any questions or concerns about the agreement and was “happy that we could help him. That we agreed to.”

¶ 12 In closing, Newline argued that the Wilsons were strangers to title because they did not possess title to the property until after the redemption transaction took place. Newline then renewed its request to cross-examine Saucedo, arguing that it “subpoenaed and [filed] a motion to compel for Mr. Saucedo to appear *** to try and cross-examine him,” but that Saucedo had failed to appear. Newline claimed it needed to cross-examine Saucedo to get “the background on this,” and to confirm that Saucedo was aware of his rights, essentially as a matter of “public policy.” The court asked, “Why would you have standing to argue on [Saucedo’s] behalf a violation of the Illinois Mortgage Rescue Fraud Act?” and “Why do you think you’d be entitled to have discovery under the Mortgage Rescue Fraud Act when you’re not the consumer that is injured under the Act?”

¶ 13 The Wilsons argued in response that the evidence showed that that they entered into an agreement or partnership with Saucedo to redeem the delinquent taxes in 2022 and, ultimately, to sell the property and split the profits; therefore, they had an interest in and were not strangers to the property when they redeemed it on March 14, 2022. They noted that Newline had presented no evidence to contradict their testimony and asked the court to deny Newline’s petition to expunge.

¶ 14 In rendering its decision, the court stated that “it is well-settled that a tax certificate holder’s right to a deed is subservient to the owner or interested person’s right to redeem,” and that the redemption statute “creates a presumption that any redemption has been made on behalf of owners and persons interested in the property.” It also stated that complete legal title is not necessary in order to redeem, and that “even an incomplete or undefined interest is sufficient to redeem.” The court found the Wilsons to be credible witnesses, and reasoned that the documents memorializing their agreement with Saucedo did not need to be executed prior to redemption to possess an interest in the property or to be acting as an agent on behalf of Saucedo. The court went on, “I do believe that [the Wilsons] have known Kenneth Saucedo who inherited the property from his mother, Walula Saucedo. And it makes logical sense that they would help this person they knew out to agree to pay the taxes and the water bill, and then allow him to live there temporarily until the property is sold. And then they have an agreement to split the proceeds.” The court stated that “on its face, there does not seem to be anything wrong with that agreement.” Finally, the court stated that while the Mortgage Rescue Fraud Act comes into play when someone “comes in and strips all the equity out of the property and then sells it back to the original owner with nothing,” those were not the facts here and Newline’s standing was questionable. The court denied Newline’s Motion to Compel Saucedo’s testimony because it found that Saucedo’s testimony would not “add[] anything.” The court then denied Newline’s Petition to Expunge.

¶ 15

II. ANALYSIS

¶ 16 Newline timely appealed the trial court’s denial of its Petition to Expunge. We therefore have jurisdiction to hear this appeal under Supreme Court Rules 301 and 303. Ill. S. Ct. R. 301 (eff. July 1, 2017); Ill. S. Ct. R. 303 (eff. July 1, 2017).

¶ 17 A. The Trial Court Properly Exercised its Discretion to Deny Newline’s Motion to Compel

¶ 18 Newline first argues that the trial court abused its discretion when it denied its motion to compel the deposition testimony of Saucedo. “A trial court has great latitude in ruling on discovery matters.” *Country Mutual Insurance Co. v. Olsak*, 391 Ill. App. 3d 295, 307 (2009). Because “the trial court is in the best position to weigh fairly the competing needs and interests of parties affected by the discovery[,]” we will not reverse absent an abuse of discretion “affirmatively and clearly shown by appellant[.]” *Avery v. Sabbia*, 301 Ill. App. 3d 839, 844-45 (1998).

¶ 19 Newline argues that the court should have compelled Saucedo to appear for deposition because “Saucedo was one of the three individuals with direct knowledge of the facts” and “his testimony was critical to confirming what, if any, interest [the Wilsons] had at the time of redemption.” Newline contends that it was “absurd that [Saucedo] was not required to provide the court his testimony to ensure the court ruled based upon the full story.”

¶ 20 “A party challenging a redemption has the burden to show that the redeemer had no legal or equitable interest in the subject premises.” *In re County Treasurer*, 396 Ill. App. 3d 541, 548 (2009). After Newline complained at the hearing on March 31, 2023, that it had been unable to question nonparty Saucedo, the court gave Newline several more weeks to conduct additional discovery, making it clear that if Newline wanted to depose Saucedo in an attempt to counter the testimony presented by the Wilsons, “the ball [was in its] court to do so by asking for discovery or a notice to produce.” The court added, “whether that takes the form of subpoenaing Mr. Saucedo and Ms. Wilson, *you do that.*” (Emphasis added.)

¶ 21 Newline asserted in his Motion to Compel and at the hearing on May 5, 2023, that he subpoenaed Saucedo “via substitute service” to appear at a deposition, but this subpoena was not attached to Newline’s motion to compel and the appellate record contains no evidence that Newline ever served this subpoena on Saucedo. See *Foutch v. O’Bryant*, 99 Ill. 2d 389, 391-92 (1984) (“an

appellant has the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error,” and “[a]ny doubts which may arise from the incompleteness of the record will be resolved against the appellant.”) A party seeking to subpoena a nonparty must file the subpoena with the court clerk (Ill. S. Ct. R. 201(o) (West 2022)), give notice to the parties of record of the subpoena (Ill. S. Ct. R. 206(a) (eff. Oct. 1, 2021), and accompany the subpoena with a witness fee. Ill. S. Ct. R. 204(a)(2) (eff. March 17, 2023); Ill. S. Ct. R. 208(a) (eff. Jan. 1, 2018). The record does not contain evidence that Newline complied with any of these requirements. Moreover, the record contains no proof that the subpoena was even served on Saucedo. Thus, although Newline asserts that the court’s denial of its motion to compel “flies in the face of the fair and level playing field that is the intended purpose of the discovery process,” nothing in the record substantiates its contention that it subpoenaed Saucedo for a deposition. Newline did not subpoena Saucedo to appear for the evidentiary hearing on May 5, 2023, either. Therefore, we find that the trial court properly exercised its discretion to deny Newline’s motion to compel.

¶ 22 B. The Wilsons Had a Right to Redeem the Delinquent Taxes

¶ 23 Newline argues that the trial court erred when it found that the Wilsons had an interest that gave them a right to redeem the delinquent taxes on Prairie Property. It argues that the Wilsons were strangers to the property and that the evidence provided by the Wilsons was insufficient to “demonstrate any interest in the Property at the time of the March 14, 2022 payment.” It argues that the trial court’s determination that the Wilsons had an interest “rests upon whether an oral agreement could somehow vest the [Wilson] with equitable title” and the Frauds Act “precludes such agreements from granting equitable title to the [Wilson].”

¶ 24 “Whether a party has a right to redeem property sold at a tax sale under section 21-345 of the [Property Tax] Code is a question of statutory interpretation, which this court reviews *de novo*.” *In re County Treasurer*, 396 Ill. App. 3d 541, 547 (2009).

¶ 25 The Property Tax Code (Code) authorizes the government’s sale of Illinois real property for unpaid taxes. 35 ILCS 200/21-205 (West 2022). The Code also provides the process by which a property owner or other interested party can redeem or buy back the property sold at a tax sale. 35 ILCS 200/21-345(a) (West 2022). “[T]he primary purpose of the tax sales provisions of the *** Code is to coerce delinquent tax property owners to pay their taxes, not to assist tax petitioners in depriving the actual owners of their property.” *In re County Treasurer*, 394 Ill. App. 3d 111, 118-19 (2009).

¶ 26 Under Section 21-345(a) of the Code, a right to redeem property “shall exist in any owner or person interested in that property *** whether or not the interest in the property sold is recorded or filed.” The statute “do[es] not require complete legal title, but only an undefined ‘interest’ in the real estate.” *People v. Hess*, 7 Ill. 2d 192, 198 (1955). See also *In re County Treasurer*, 394 Ill. App. 3d at 120 (“A party asserting a right to redeem *** must have some interest, however incomplete or undefined, in the property, but an interest nonetheless.”) The statute “presume[s]” that any redemption “ha[s] been made on or behalf of the owners and persons interested in the property[.]” 35 ILCS 200/21-345(a) (West 2022). Therefore, anyone challenging the validity of the redemption “must overcome the presumption that [the redeemer] validly redeemed on behalf of a proper party.” *In re County Treasurer*, 301 Ill. App. 3d 672, 676 (1998). “[T]he mere fact that [a] party redeems out of his own economic interest does not mean he does not do so on the owner’s behalf as well. The relationship between the owner and the redeemer may be such that a valid redemption promotes both their interests.” *Id.* at 679.

¶ 27 Here, Newline asserts that the Wilsons were “strangers” to the property and therefore lacked the right to redeem. However, Elaine Wilson testified that she reached an agreement with Saucedo a few weeks before the redemption period expired to pay the delinquent taxes on the Prairie Property in exchange for an interest in the property. The Wilsons paid the delinquent taxes prior to the redemption deadline, then subsequently signed a written agreement memorializing their verbal agreement with Saucedo. After hearing their testimony, the court found the Wilsons credible, and concluded that they properly possessed an interest in the property and also that they were acting on behalf of Saucedo at the time of the redemption. It stated, “it makes logical sense that [the Wilsons] would help this person they knew out to agree to pay the taxes and the water bill, and then allow him to live there temporarily until the property is sold. And then they have an agreement to split the proceeds.” It therefore rejected Newline’s argument. We find no error in the trial court’s finding. Although the Wilsons did not possess title to the property at the time of redemption, they were not required to do so. See *People v. Hess*, 7 Ill. 2d at 198 (the statute “does not require complete legal title, but only an undefined ‘interest’ in the real estate”). The Wilsons’ testimony, coupled with the documents they submitted to the court, sufficed to demonstrate their interest in the Prairie Property. The burden was on Newline to rebut the presumption that the redemption was valid (*In re County Treasurer*, 301 Ill. App. 3d at 676), and it failed to do so.

¶ 28 Newline alternatively argues that any agreement between Saucedo and the Wilsons was invalid because it was not put in writing and signed until after the Wilsons redeemed the property. However, the Code simply requires clear evidence of an agreement between a party with a redeemable interest and the party who paid the redemption. *Purdy v. C.H. Strong Elevator, Inc.*, 29 Ill. App. 3d 894, 897-98 (1975) (finding sufficient evidence to support redemption where the redeemer “ha[d] conversations about purchasing the mortgage and the necessity of redeeming the

taxes” with the owner and then “acted on the basis of her conversation with [the owner]” when she went to pay the taxes to redeem the property). None of the cases cited by Newline support its contention that the oral agreement for the Wilsons to redeem the taxes and acquire the property from Saucedo had to be put in writing to give the Wilsons an interest in the property to make the redemption valid under the Code. To the contrary, under the liberal policy of redemption, the party asserting the right to redeem does not need to hold title to the property and needs only have “some interest, however incomplete or undefined, in the property[.]” *In re County Treasurer*, 394 Ill. App. 3d 111, 120 (2009); *In re County Collector of DuPage County v. Bodoh*, 98 Ill. App. 3d 950, 952 (1981).

¶ 29 Newline also challenges the Wilsons’ interest in the Prairie Property by arguing that the Frauds Act “precludes such [verbal] agreements from granting equitable title to the [Wilson].” Not so. The Frauds Act forecloses a claim to enforce a real estate sale contract if the contract has not been reduced to writing and has not been signed by the party against whom the contract is sought to be enforced (see 740 ILCS 80/2 (West 2022)), which is not the case here. Moreover, “[t]ax deed proceedings are not designed, nor are they the appropriate forum, for trying substantial disputes as to title.” *In re Cook Country Treasurer*, 185 Ill. 2d 428, 437 (1998). Instead, “[t]hese proceedings are very limited in nature, and the only issue presented in these proceedings is whether [the party asserting the right to redeem] is within the class of persons entitled to redeem.” *Id.* at 437-38. In this case, the court was tasked with determining whether the Wilsons had an interest in the property at the time of redemption, and the law is clear that parties asserting a right to redeem need not hold title to the property. *In re County Treasurer*, 394 Ill. App. 3d at 120. Therefore, Newline’s Frauds Act argument—which attacks the enforceability of the oral agreement between Saucedo and the Wilsons that preceded the Wilsons’s redemption—misses the point because the

enforceability of the oral agreement between Saucedo and the Wilsons had no bearing on the legal question before the court. See *In re County Treasurer*, 396 Ill. App. 3d 541, 550 (2009) (holding that “[t]he trial court erred when it determined that questions of title had a bearing on whether there was a redeemable interest.”) Accordingly, the Frauds Act in no sense undermines the trial court’s finding that the Wilsons had an interest in the property when they redeemed the taxes.

¶ 30 C. The Mortgage Rescue Fraud Act Does Not Apply

¶ 31 Newline contends that the trial court erred when it found that the Mortgage Rescue Fraud Act (765 ILCS 940/1 *et seq.* (West 2022)) (Act) did not apply. The Act became effective in 2007 to protect the owners of “distressed property,” defined as “residential real property *** that is in foreclosure or at risk of loss due to nonpayment of taxes****” 765 ILCS 940/5 (West 2022). However, “[b]y its very terms, the [Act] does not apply to transactions where the purchaser does not offer to sell the property or convey an interest back to the owner. Rather, it applies only to transactions where the purchaser promises to convey an interest in fee back to the owner or provides the owner an option to repurchase the property.” *In re County Treasurer*, 394 Ill. App. 3d 111, 122-23 (2009); see 765 ILCS 940/5 (West 2022) (defining a “distressed property conveyance” as a transaction where the owner of a distressed property transfers an interest in the property to another, and the acquirer of the property “conveys or promises to convey an interest in fee back to the owner or gives the owner an option to purchase the property at a later date.”) The trial court concluded that the Act did not apply because under the terms of the Wilson-Saucedo Agreement, “Wilson as the purchaser is not offering to sell the property back to Kenneth Saucedo or to convey an interest to him. And that is what is required for the application of the [Act].” We find no error in the trial court’s conclusion.

¶ 32

III. CONCLUSION

¶ 33 For the foregoing reasons, the judgment of the trial court is affirmed.

¶ 34 Affirmed.