IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
September 7, 2022 Session

CONNIE MUNN MACCAUGHELTY v. JOHN R. SHERROD, III

Appeal from the Chancery Court for Davidson County
No. 17-9-III Ellen Hobbs Lyle, Chancellor

No. M2020-00403-COA-R3-CV

Buyer of property at delinquent tax sale filed suit against the property's former owner to quiet title. The former owner filed an answer and counterclaim, alleging, lack of notice concerning the underlying delinquent tax lawsuit and violation of her due process rights. The trial court dismissed the counterclaim with prejudice, concluding the counterclaim was time-barred by the applicable statute of limitations for invalidating tax sales, and ruled for the buyer in the quiet title action. We hold that the former owner failed to institute a legal challenge to the tax sale within the limitations period despite having adequate notice of the sale. Accordingly, we affirm the judgment of the trial court in all respects.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed; Case Remanded

KRISTI M. DAVIS, J., delivered the opinion of the Court, in which FRANK G. CLEMENT, JR., P.J., M.S., and JEFFREY USMAN, J., joined.

John M. Richardson, Jr., Chapmansboro, Tennessee, for the appellant, Connie Munn MacCaughelty.

S. Madison Roberts, IV, Lauren Paxton Roberts, and Jonathan D. Burnley, Franklin, Tennessee, for the appellee, John R. Sherrod, III.

Wallace W. Dietz, Catherine J. Pham and J. Brook Heavener, Nashville, Tennessee, for the appellee, Metropolitan Government of Nashville & Davidson County.

OPINION

FACTUAL AND PROCEDURAL BACKGROUND

Connie Munn MacCaughelty ("Appellant") is the former owner of the property located at 4113 Aberdeen Road in Nashville (the "Property"). She failed to pay property taxes for 2012 and 2013. The Metropolitan Government of Nashville & Davidson County ("Metro") initiated delinquent tax sale proceedings against Appellant in the Chancery Court for Davidson County ("the trial court"). In September 2014, the trial court entered an order directing the Clerk and Master to sell the Property at public auction.

John Sherrod, III ("Buyer") purchased the Property at the November 9, 2014 tax sale conducted by Metro. The trial court entered a final decree confirming the sale on February 9, 2015. One year later, Buyer received a letter from Appellant's counsel, dated February 9, 2016, asserting that there were "serious defects in the prosecution of the Delinquent Tax Suit" involving the Property and advising that Appellant "does not give permission, express or implied[,] to any ingress or egress" to the Property. No further action was taken by Appellant or her counsel thereafter. Subsequently, the trial court issued a writ of possession in favor of Buyer on October 17, 2016, decreeing that he had the right to full possession of the Property.

On January 4, 2017, Buyer filed a complaint in the trial court to quiet title to the Property. In his complaint, Buyer asserted that (1) the statutory period of redemption ended on February 9, 2016, one year after the trial court had entered a final decree confirming the tax sale; (2) Appellant failed to exercise such right of redemption; and (3) the statutory limitations period to invalidate the sale also ended on February 9, 2016. Accordingly, Buyer requested an order quieting title to the Property. Appellant answered the complaint and filed a counterclaim against Buyer on May 15, 2017, alleging conversion, lack of notice concerning the underlying delinquent tax lawsuit, and violation of her due process rights. She requested that the trial court void the November 2014 tax sale, restore to her "perfect ownership" of the Property, and award her damages associated with her loss of the Property. Appellant later amended her answer and counterclaim to provide more complete answers and correct typographical errors.

On July 13, 2017, Appellant filed a third-party complaint against Metro, alleging that her due process rights were violated because Metro failed to serve her with process in the underlying delinquent tax lawsuit despite having knowledge of her correct address.[1] This failure, she asserted, resulted in a default judgment against her and, ultimately, in the tax sale of the Property. Appellant claimed that notice by publication is only permissible when the taxpayer's location is unknown and that Metro had her correct address in Ashland City, Tennessee, because of Appellant's active utility services with Metro. She asked the Court to invalidate several orders associated with the tax sale of the Property. In its answer

[1] At all times pertinent to this appeal, Appellant did not reside at the Property. Instead, she resided at 3281 Sweethome Road in Ashland City, Tennessee.

to the third-party complaint, Metro asserted that Appellant's claim was time-barred by two separate statutes. First, Appellant did not exercise her right to redeem the Property within one year of entry of the final decree confirming the sale of the Property, as required under Tennessee Code Annotated section 67-5-2701(a). Second, Appellant did not file a claim to invalidate the tax sale within a year of the date her claim accrued, as provided under Tennessee Code Annotated section 67-5-2504(d)(1). Metro also averred that Appellant's claim was barred by her failure to tender to the clerk of the court the amounts required under Tennessee Code Annotated section 67-5-2504(c).

On May 17, 2018,[2] Buyer answered Appellant's counterclaim and filed a motion for judgment on the pleadings. In the motion, Buyer contended, as Metro had, that Appellant's claims were barred by the statute of limitations found at section 67-5-2504(d)(1) and by the requirements of section 67-5-2504(c). In addition, Buyer argued that Metro provided proper notice of the tax sale to Appellant. In her response, Appellant asserted that the aforementioned statutes were inapplicable because the basis of her counterclaim is that the default judgment against her in the delinquent tax lawsuit and subsequent order confirming the tax sale are void for insufficient process and lack of notice, respectively. She also gave notice to the Attorney General that she was challenging the constitutionality of section 67-5-2504, and the State later intervened for the limited purpose of defending the statute.

Buyer's motion for judgment on the pleadings was not heard until January 17, 2020. At the hearing, the trial court heard arguments on the following issues: (1) whether Appellant's counterclaim was time-barred by the applicable statute of limitations; (2) whether the allegations of the counterclaim, in addition to the court record, stated a claim supporting invalidation of the tax sale; and (3) whether Appellant's failure to comply with Tennessee Code Annotated, section 67-5-2504(c)'s requirement that she pay "the amount of the bid and all taxes subsequently accrued, with interest and charges" into court barred the filing of her counterclaim, and (4) if so, whether such requirement would be unconstitutional. In a memorandum and order entered on February 10, 2020, the trial court found that Appellant's claims could not be established without evidence extrinsic to the judgment and the court record and, therefore, under Tennessee law, the orders challenged by Appellant were only "voidable" as opposed to "void." Accordingly, the trial court concluded that Appellant's claim was subject to the one-year statute of limitations for challenging tax sales and barred by it. Nonetheless, the trial court explicitly found that, based on "the face of the record,"

> Metro acted with a reasonable level of due diligence in attempting to serve, and to provide proper notice to, [Appellant] and did properly serve

[2] In February 2018, after counsel for the parties did not respond to a November 2017 case management order, the trial court dismissed the case without prejudice for failure to prosecute. The case was later reinstated, however, upon Buyer's motion to set aside the dismissal under Tennessee Rule of Civil Procedure 60.

> [Appellant] by publication and did properly provide [Appellant] with notice of the tax sale. Thus, [Appellant's] claims seeking to invalidate the underlying tax sale fail to state a claim upon which relief may be granted, and must be dismissed with prejudice.

The trial court also determined that it was unnecessary to reach Appellant's constitutional claims given that Appellant's counterclaim was subject to dismissal on other grounds.

Based on the trial court's ruling, Metro then filed its own motion for judgment on the pleadings as to the third-party complaint filed by Appellant. Before the motion could be heard, however, Appellant filed a notice of appeal to this Court. This Court entered an order providing that the order appealed from was nonfinal and could not be reviewed. Upon remand, the trial court entered an order granting Metro's motion and dismissing Appellant's claims against Metro on July 29, 2020. The trial court explained that its previous conclusion that Appellant did not challenge the tax sale within the limitations period was also dispositive of her claims against Metro. The trial court also made clear that this order dismissing Appellant's claims against Metro was still nonfinal, inasmuch as Buyer's original complaint to quiet title remained pending.

On May 19, 2021, Buyer filed a motion for judgment on the pleadings as to the original quiet title action. The trial court granted the motion on July 8, 2021, concluding that Buyer had "perfect" title and owned the Property free and clear because the tax sale at which he bought the Property was valid.

Appellant then appealed to this Court a second time.[3]

ISSUES

Although the parties present multiple issues for review, we have determined that they are all addressed by the dispositive issue of whether the trial court erred in granting Buyer's motion for a judgment on the pleadings with respect to Appellant's counterclaim.

STANDARD OF REVIEW

This Court reviews orders granting a motion for judgment on the pleadings under the same standard of review employed to review orders granting a motion to dismiss for failure to state a claim. *Young v. Barrow*, 130 S.W.3d 59, 63 (Tenn. Ct. App. 2003) (citing *Waller v. Bryan*, 16 S.W.3d 770, 773 (Tenn. Ct. App. 1999)). Consequently, we review the trial court's decision de novo without a presumption of correctness and construe the complaint liberally in favor of the nonmovant, taking her factual allegations as true. *Id.* at 63 (citing *Stein v. Davidson Hotel Co.*, 945 S.W.2d 714, 716 (Tenn. 1997)). In addition,

[3] On both the first and second notice of appeal, Appellant named Buyer as the only appellee.

we are constrained to uphold the granting of the motion "only when it appears that the plaintiff can prove no set of facts in support of a claim that will entitle him or her to relief." *Id.* at 63.

ANALYSIS

Appellant contends that the trial court erred in granting Buyer's motion for judgment on the pleadings as to her counterclaim because (1) Metro did not comply with the requirements of Tennessee Code Annotated section 67-5-2502 for service of process in the underlying delinquent tax lawsuit; and (2) Metro did not provide her with notice of the subsequent tax sale in accordance with the provisions of Tennessee Code Annotated section 67-5-2415(b).[4] Therefore, she argues, the default judgment in the delinquent tax lawsuit and the order confirming the tax sale of the Property are void. Buyer and Metro respond that the trial court correctly determined that Appellant's attempt to invalidate the tax sale is time-barred under Tennessee Code Annotated section 67-5-2504(d)(1). They also argue that the orders challenged by Appellant are not void and, thus, not subject to collateral attack after the limitations period has expired. As a threshold issue, we first address the propriety of the trial court's ruling on the statute of limitations.

I.

The statutory scheme governing the sale of real estate for delinquent taxes provides that "[a] tax deed of conveyance or an order confirming the sale shall be an assurance of perfect title to the purchaser of such land." Tenn. Code Ann. § 67-5-2504(b) (2013).[5] "No suit shall be commenced in any court of the state to invalidate any tax title to land until the party suing shall have paid or tendered to the clerk of the court where the suit is brought the amount of the bid and all taxes subsequently accrued, with interest and charges as provided in this part." *Id.* § 67-5-2504(c). Moreover, such suit "shall be commenced within one (1) year from the date the cause of action accrued, which is the date of the entry of the order confirming the tax sale." *Id.* § 67-5-2504(d)(1). However, this limitations period "may be extended to one (1) year after the plaintiff discovered or with the exercise of reasonable due diligence should have discovered the existence of such cause of action." *Id.* § 67-5-2504(d)(2).

Here, the trial court confirmed the tax sale of the Property by order dated February

[4] Appellant also asserts in her brief that Tennessee Code Annotated section 67-5-2701(a)(3)(A), concerning evidence of property abandonment, is relevant in this case. Respectfully, this statute addresses the procedure for redemption of a property following entry of an order confirming the sale. Appellant did not exercise her right of redemption, and the statute is therefore not pertinent to this appeal.

[5] We cite to the version of the relevant statutes in effect on November 9, 2014, when Metro conducted the tax sale challenged by Appellant. *See Davidson Pabts, LLC v. Worsham*, No. M2014-01061-COA-R3-CV, 2015 WL 4115174, at *5 n.4 (Tenn. Ct. App. May 18, 2015) ("We cite to the 2008 version of the statute because the tax sale in this case occurred in 2008.").

9, 2015. Accordingly, the limitations period to challenge the tax title conferred upon Buyer expired one year later on February 9, 2016.[6] Appellant did not initiate an action seeking to invalidate the tax title within the limitations period. Indeed, Appellant's allegations of defective notice and service of process were first brought before a court in her answer to Buyer's complaint to quiet title and her counterclaim, filed on May 15, 2017. She does not dispute these facts or contend that the statute's tolling provision is applicable.[7] Consequently, we affirm the trial court's conclusion that under section 67-5-2504(d)(1), Appellant was barred from seeking to invalidate Buyer's tax title to the Property.

But this ruling does not automatically extinguish this appeal. "Where the taxpayer is not properly before the court[,] the resulting decree and sale is a nullity as to him and may be assailed *at any time*." *Rast v. Terry*, 532 S.W.2d 552, 555 (Tenn. 1976) (citing *Tenn. Marble & Brick Co. v. Young*, 163 S.W.2d 71 (1942); *Naylor v. Billington*, 378 S.W.2d 737 (Tenn. 1964)) (emphasis added). Consequently, if Appellant can establish that the default judgment in the underlying delinquent tax lawsuit and the trial court's order confirming the sale of the Property are void because of defective service of process, then the limitations period found in section 67-5-2504(d)(1) does not apply to bar her counterclaim. *See Tenn. Marble & Brick Co.*, 163 S.W.2d at 75 ("A decree may be assailed because of invalidity at any time. A void decree is in the same plight as though it never existed.").

II.

Our Supreme Court has set forth the legal principles applicable to determine whether a judgment is void. '"[A] void judgment is one so affected by a fundamental infirmity that the infirmity may be raised even after the judgment becomes final."' *Turner v. Turner*, 473 S.W.3d 257, 270 (Tenn. 2015). Specifically, "[a] judgment rendered by a court lacking either personal or subject matter jurisdiction is void." *Id.* (citing *Ins. Corp. of Ireland*, 456 U.S. 694, 694 (1982); *Hood v. Jenkins*, 432 S.W.3d 814, 825 (Tenn. 2013); *Gentry v. Gentry*, 924 S.W.2d 678, 680 (Tenn. 1996)).

Nonetheless, a judgment "will be held void only when 'its invalidity is disclosed by the face of that judgment, or in the record of the case in which that judgment was rendered."' *Id.* (quoting *Giles v. State ex rel. Giles*, 235 S.W.2d 24, 28 (1950); *Hood*, 432 S.W.3d at 825). Consequently, "[a]ll decrees not thus appearing on their face to be void are absolutely proof against collateral attack, and no parol proof is admissible on such an

[6] The limitations period for exercising the right of redemption also expired on that date. *See* Tenn. Code Ann. § 67-5-2701(a)(1)(A)(i) ("If the period of delinquency is five (5) years or less, the redemption period shall be one (1) year from the entry of the order confirming the sale[.]").

[7] We note that the letter sent to Buyer by Appellant's counsel, dated February 9, 2016, asserting flaws in the underlying delinquent tax lawsuit, establishes that Appellant discovered her cause of action no later than February 9, 2016. Still, she did not commence an action to invalidate the tax title within the following year. *See* Tenn. Code Ann. § 67-5-2504(d)(2).

attack to show any defect in the proceedings, or in the decree." *Gentry*, 924 S.W.2d at 680 (quoting William H. Inman, *Gibson's Suits in Chancery* § 228 at 219-20 (7th ed. 1988)). Stated differently, "[i]f the defect allegedly rendering the challenged judgment void is not apparent from the face of the judgment or the record of the proceeding from which the challenged judgment emanated and must instead be established by additional proof, the judgment is merely voidable, not void." *Turner*, 473 S.W.3d at 271 (citing *Hood*, 432 S.W.3d at 825). As a result, in determining whether a judgment is void, we "must confine [our] review to the record of the proceeding from which the judgment emanated." *Id.* at 275 (citing *Hood*, 432 S.W.3d at 825).

In her response to Buyer's motion for judgment on the pleadings with respect to Appellant's counterclaim, Appellant stated that the basis for her counterclaim is that she "was not properly served in Metro's underlying 2012 delinquent tax suit because constructive service was not proper in that action. Therefore, the default judgment entered in that action and the subsequent tax sale are both void." The trial court accurately described the relevant proceedings in the underlying delinquent tax lawsuit, as reflected in the record, as follows:

> [Appellant] has alleged that Metro attempted unsuccessfully to serve her in person in the underlying delinquent tax suit at the address of the Subject Property [that is, 4113 Aberdeen Road], resulting in a Sheriff's return of "not to be found" and "appears vacant." Based on the Sheriff's return of service, and a supporting affidavit, Metro served [Appellant] by publication pursuant to Tenn. Code Ann. § 21-1-203(a). In reviewing the record in the underlying delinquent tax suit, the Court further finds that notices of the tax sale were mailed by certified mail, return requested, to [Appellant] at 3728 Sweethome Road, Ashland City, TN 37015 and delivered on October 30, 2014; at P.O. Box 757, Pleasant View, TN 37145, and returned "unclaimed" on November 18, 2014; and to the address of the Subject Property a[nd] returned "unclaimed" on November 8, 2014. The Court finds that such allegations, accepted as true, do not establish a violation of due process *on the face of the judgment or the record*, but instead show that Metro acted with reasonable due diligence in attempting to serve [Appellant], did properly obtain service on [Appellant] by publication, and did provide additional notice to [Appellant] of the tax sale.

(Emphasis added) (internal citations omitted). The trial court also summarized Appellant's specific allegations in her counterclaim concerning defective service of process in the underlying tax lawsuit:

> However, [Appellant] also alleges she was actually living at 3281 Sweethome Road, Ashland City, TN 37015 at the time. [Appellant] alleges that this address was on file with Metro Water Services, Nashville Electric Service,

> and Piedmont Natural Gas. Further, [Appellant] alleges, the Subject Property was not actually vacant at the time.

(Internal citations omitted). In short, Appellant asserted that Metro knew or should have known her correct address because it was on file with certain utility providers, did not attempt to serve her with process at her current address, and improperly obtained an order to serve by publication. These allegations, she argues, constitute improper service of process and constitutional due process violations.

As the trial court determined, these alleged circumstances do not appear on the face of the default judgment or within the record in the underlying tax lawsuit; that is, Appellant's allegations are extrinsic to the underlying proceedings. Accordingly, the challenged default judgment is merely voidable, not void. *Turner*, 473 S.W.3d at 271. As such, the default judgment is "absolutely proof against collateral attack, and no parol proof is admissible on such an attack to show any defect in the proceedings, or in the decree." *Gentry*, 924 S.W.2d at 680. Our review of Appellant's challenge to service of process is limited to the record of the underlying tax lawsuit. *Turner*, 473 S.W.3d at 271.

Upon careful review, we agree with the trial court's conclusion that nothing "on the face of the judgment or the record" in the underlying proceedings, as presented to this Court by the parties, reveals deficiencies in service of process. To the contrary, the record shows that Metro complied with the statutory requirements for service of process in the delinquent tax lawsuit and for notice of the tax sale.

Tennessee Code Annotated section 67-5-2415 provides, in relevant part:

> (a) The court shall have jurisdiction to award personal judgment against an owner upon the claim for the debt upon determining that proper process has been served upon such owner. The court shall have jurisdiction to award a judgment enforcing the lien by a sale of the parcel upon determining that any the following actions have occurred as to each owner:
>
> (1) That proper process has been served upon an owner;
>
> (2) That the owner has actual notice of the proceedings by mail or otherwise; or
>
> (3) That constructive notice by publication pursuant to §§ 21-1-203 and 21-1-204, except as modified in this section, utilizing a description of the parcel in accord with § 67-5-2502(a)(1), has been given to unborn, unfound and unknown owners and that the plaintiff has made or will make a diligent effort prior to the confirmation of the sale of the parcel to give actual notice of the proceedings to persons owning an interest in the parcel, as identified by the searches described in § 67-5-2502(c)(2).

. . . .

(c) Notice of the pendency of the proceedings as to a parcel constitutes notice of the pending sale of the parcel and vice versa.

. . . .

(f) Process may be served either by an authorized process server or forwarded by certified or registered mail, return receipt requested, or by any alternative delivery service as authorized by Section 7502 of the Internal Revenue Code, codified in 26 U.S.C. § 7502.

(g) The return of the receipt signed by the defendant, spouse, or other person deemed appropriate to receive summons or notice as provided for in the Rules of Civil Procedure, or its return marked "refused", "unclaimed", or other similar notation, as evidenced by appropriate notation of such fact by the postal authorities, and filed as a part of the record by the clerk shall be evidence of actual notice.

(h) Prior to confirming the sale of a parcel, the court shall determine that a diligent effort has been made to give actual notice of the proceedings to all interested persons, as identified by the searches described in § 67-5-2502(c)(2).

Tenn. Code Ann. § 67-5-2415 (Supp. 2014). In turn, Tennessee Code Annotated section 67-5-2502 states, in relevant part:

[(a)](3) Notice to parties or others in delinquent tax suits and sales shall be governed by the Tennessee Rules of Civil Procedure, and may be forwarded to the address of an owner of the property that is on record in the office of the assessor of property.

. . . .

(b) It is the responsibility of the property owner to register the property owner's name and address with the assessor of property of the county in which the land lies.

(c)(1) For the purposes of this chapter, unless the context requires otherwise:

(A) "Diligent effort to give actual notice of the proceedings" means a reasonable effort to give notice which is reasonably calculated, under all the circumstances and conditions, to apprise interested persons of the pendency of the proceedings in time to afford them an opportunity to prevent the loss of their interest in the parcel. Such effort shall be such as one desirous of

> actually informing the persons might reasonably adopt to accomplish it. Such effort does not, however, require that an interested person receive actual notice. Nor does it require the plaintiff to search records or sources of information in addition to that information available in the specific offices listed in subdivision (c)(2);
>
> . . . .
>
> (2) The delinquent tax attorney shall make a reasonable search of the public records in the offices of the assessor of property, trustee, the register of deeds and the local office where wills are recorded, seeking to identify and locate all persons owning an interest in a parcel.
>
> (3) The delinquent tax attorney shall make a diligent effort to give actual notice of the proceedings to all interested persons, as identified by the searches described in subdivision (c)(2).

Tenn. Code Ann. § 67-5-2502 (2013 & Supp. 2014)). Section 21-1-203, however, allows personal service of process on a defendant in chancery court cases to be dispensed with under certain circumstances, including:

> (2) When, upon inquiry at his usual place of abode, he cannot be found, so as to be served with process, and there is just ground to believe that he is gone beyond the limits of the state; [and]
>
> (3) When the sheriff shall make return upon any leading process, that he is not to be found;

Tenn. Code Ann. § 21-1-203(a) (2021). "To dispense with process in any of the cases listed in subsection (a), the facts shall be stated under oath in the bill, or by separate affidavit, or appear by the return." *Id.* § 21-1-203(b). When these circumstances are present, service by publication is authorized, and "the clerk, as soon as the necessary affidavit is made, shall enter upon the rule docket an order requiring the defendant to appear at a certain day named in the order, being a rule day, and defend, or otherwise the bill will be taken for confessed." *Id.* § 21-1-204(a). A copy of the order must be published for four (4) consecutive weeks in the newspaper mentioned in the order or designated by the general rules of the court. *Id.* § 21-1-204(b). Such procedure establishes constructive notice.

Here, Metro attempted personal service of process on Appellant at the Property, which was listed as the address for the responsible taxpayer in the warranty deed to the Property.[8] The sheriff's deputy return on service of summons stated: Appellant "not to be

[8] As previously noted, "[i]t is the responsibility of the property owner to register the property

found in my county," "tax auction notice posted at property posted 4/8/14," and "other – no response, appears vacant." Subsequently, the trial court entered an order of publication upon affidavit from Metro averring, among other things, that the sheriff's return, upon attempted service of process, came back "not to be found." *See id.* §§ 21-1-203, -204(a). The order of publication provided that a copy of the same be published for four consecutive weeks in *The Tennessean*. In addition, the record shows that prior to the tax sale on November 9, 2014, Metro sent notice of the tax sale via certified mail to three potential addresses for Appellant identified through a title search. The certified mail to one of these addresses was returned "delivered," and the certified mail to the other two addresses were returned "unclaimed." Under these circumstances, we conclude that Metro took reasonable steps to give Appellant notice of both the underlying delinquent tax lawsuit and the subsequent tax sale of the Property.[9] Moreover, we conclude that Metro properly served process on Appellant by publication.

Appellant's reliance on our opinion in *Owens v. Hamilton County*, No. E2017-02395-COA-R3-CV, 2018 WL 6253818 (Tenn. Ct. App. Nov. 28, 2018), is misplaced. In *Owens*, the taxpayer initiated legal action asserting that the sale of her property was void due to the lack of notice of the delinquent tax sale proceedings. *Id.* at *1. We concluded that Hamilton County did not make a reasonable effort to provide the taxpayer with notice of the proceedings under Tennessee Code Annotated sections 67-5-2415, 67-5-2502, and 21-1-203(a) because the County did not attempt service at the address listed on the deed to the property and on the property's tax bill, 9410 Dexter Lane. *Id.* at *5. Instead,

> the County attempted service, via certified mail, at "09410 Dexter Lane." The trial court conceded that "09410 Dexter Lane" is not the same mailing address as "9410 Dexter Lane." When the first summons was returned, instead of attempting service at "9410 Dexter Lane," the County unilaterally changed Ms. Owens's address in its system to "9412 Dexter Lane" and attempted service via certified mail at that address. When the second summons was returned to the County, despite having information that "no such number" existed for "9412 Dexter LN," Deputy Bowman attempted personal service at "9412 Dexter Lane." Upon discovering that "9412 Dexter Lane" was a vacant lot, the County ended its search and sought to serve Ms. Owens via publication. None of the methods employed by the County were reasonably calculated to provide Ms. Owens notice because the County never

owner's name and address with the assessor of property of the county in which the land lies." Tenn. Code Ann. § 67-5-2502(b).

[9] We note that Appellant's contention that Metro was obligated to search the records of certain utilities in order to comply with the statutorily prescribed "diligent effort" to give Appellant notice of the proceedings holds no water. The statutory framework provides that diligent effort does not "require [Metro] to search records or sources of information in addition to that information available . . . in the offices of the assessor of property, trustee, the register of deeds and the local office where wills are recorded." Tenn. Code Ann. § 67-5-2502(c)(1)-(2).

attempted service at her correct address.

. . . .

> Mailing and attempting personal service at a vacant lot, which is not the address the defendant provided to the assessor's office, is not a method of notification that is reasonably calculated to provide notice.

Id. at *5-6. The circumstances in *Owens* are readily distinguishable from the present case. Metro did not send certified mail to an incorrect address or arbitrarily change her address. Rather, Metro attempted personal service on Appellant at the precise address listed on the deed to the Property, which was not a vacant lot. Upon the sheriff's return of "not to be found," Metro obtained an order of publication from the Clerk & Master in accordance with the provisions of Tennessee Code Annotated sections 21-1-203 and 21-4-204. *Owens* is thus inapposite.

Having found no service or notice infirmities in the underlying delinquent tax lawsuit and tax sale of the Property that would render the order challenged by Appellant void, Appellant is subject to the statute of limitations for invalidating a tax sale, Tennessee Code Annotated section 67-5-2504(d)(1). Inasmuch as Appellant did not seek to invalidate the tax sale of the Property within one year of the order confirming the same, her counterclaim is time-barred. We affirm the trial court's judgment on the pleadings in favor of Buyer with respect to Appellant's counterclaim. For the same reasons, we affirm the trial court's judgments on the pleadings in favor of Metro concerning Appellant's third-party complaint and in favor of Buyer concerning the original action to quiet title.

CONCLUSION

We affirm the trial court's judgments on the pleadings in favor of Buyer with respect to Appellant's counterclaim and the action to quiet title and in favor of Metro with respect to Appellant's third-party complaint. The case is remanded for such further proceedings as may be necessary and are consistent with this opinion. Costs of the appeal are assessed against the Appellant, Connie Munn MacCaughelty, for which execution may issue if necessary.

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KRISTI M. DAVIS, JUDGE