

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D19324
O/prt

_____AD3d_____

Argued - April 17, 2008

ROBERT A. SPOLZINO, J.P.
EDWARD D. CARNI
THOMAS A. DICKERSON
RANDALL T. ENG, JJ.

2007-04161

DECISION & ORDER

NYCTL 1996-1 Trust, et al., respondents,
v Rupert Moore, appellant, et al., defendants;
Nassar Zar, Inc., nonparty purchaser.

(Index No. 26071/98)

Richard Lavorata, Jr., West Babylon, N.Y., for appellant.

Cozen O'Connor, New York, N.Y. (Josef F. Abt of counsel), for respondents.

Behnam Kahen, Flushing, N.Y. (Michael S. Winokur of counsel), for nonparty purchaser.

In an action to foreclose a tax lien, the defendant Rupert Moore appeals from an order of the Supreme Court, Kings County (Ruditzky, J.), dated March 26, 2007, which denied his motion, inter alia, to stay the transfer of a deed to the subject property to the successful bidder at a foreclosure sale and, in effect, to permit him to redeem the property.

ORDERED that the order is affirmed, with costs to the respondents.

The title owner of property encumbered by a mortgage or a tax lien has the right to redeem the property at any time prior to the actual sale under a judgment of foreclosure (*see Nutt v Cuming*, 155 NY 309; *Norwest Mtge, Inc. v Brown*, 35 AD3d 682; *NYCTL 1996-1 Trust v LFJ Realty Corp.*, 307 AD2d 957; *United Capital Corp. v 183 Lorraine Street Assoc.*, 251 AD2d 400). However, the foreclosure sale extinguishes the right of redemption, and thus “redemption is not permitted after a foreclosure sale, whether or not a deed has actually been delivered to the sale purchaser” (*GMAC Mtge. Corp. v Tuck*, 299 AD2d 315; *see Norwest Mtge., Inc. v Brown*, 35 AD3d

May 20, 2008

Page 1.

NYCTL 1996-1 TRUST v MOORE

682; *United Capital Corp. v 183 Lorraine Street Assoc.*, 251 AD2d 400).

Here, even assuming that the temporary restraining order issued by the court prior to the sale was effective to extend the appellant's right to redeem beyond the foreclosure sale (*see Norwest Mtge., Inc. v Brown*, 35 AD3d 682), the record fails to demonstrate that the appellant redeemed the property before his right to do so was extinguished. Accordingly, the Supreme Court properly denied his motion, inter alia, to stay the transfer of the deed to the successful bidder and, in effect, to permit him to redeem the property.

The appellant's remaining contentions are without merit.

SPOLZINO, J.P., CARNI, DICKERSON and ENG, JJ., concur.

ENTER:


James Edward Pelzer
Clerk of the Court