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Artmor Invs., LLC v. Nye Cnty., 138 Nev. Adv. Op. 53 (July 7, 2022)

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PROPERTY LAW: DEADLINE TO CLAIM EXCESS PROCEEDS FROM TAX SALE

Summary

NRS 361.610(4) requires claimants for excess proceeds from tax sales to file a claim within one year of the deed's recording. One timely filed claim under the statute does not toll or terminate the one-year deadline for other claimants entitled to a portion of the excess proceeds. Further, counties are not required to distribute excess proceeds to all former owners when only a portion has been timely claimed.

Background

Appellant Artmor Investments, LLC (Artmor) owned land in Nye County along with two other businesses as tenants in common. The three owners failed to pay property taxes, and Nye County sold the land at public auction, resulting in excess proceeds. Deeds for the sold properties were recorded on June 8, 2019.

Under NRS 361.610(4), owners must file claims for excess proceeds within one year of the deed's recording. The other two former property owners filed claims within a year and received one-third portions of the excess proceeds from Nye County. Artmor filed a claim in July 2020, which Nye County denied because Artmor failed to timely file. Artmor petitioned the district court for a writ of mandamus, arguing that when one claimant files within the year deadline, NRS 361.610(4) is satisfied, and the deadline no longer applies to other claimants. The district court denied Artmor's claim, and Artmor appealed.

Discussion

Artmor argues that when one owner files a claim within the year deadline outlined in NRS 361.610(4), the requirement is satisfied, and other claimants may file claims after the deadline. The Court interpreted NRS 361.610 for the first time and disagreed with Artmor's claim. When interpreting statutes, the Court gives terms their plain meaning and construes the statute to avoid absurd results.² The Court also looks at the legislative history and public policy.³ The Court must construe statutes as a whole rather than in isolation.⁴

Under NRS 361.610(4), counties must store excess proceeds in an account separate from county funds for one year. If no former owner files a claim within that year, "the county treasurer shall pay the money into the general fund of the county, and it must not thereafter be refunded to

¹ By Josette Vanderlaan.

² *S. Nev. Homebuilders Ass'n v. Clark Cnty.*, 121 Nev. 446, 449, 117 P.3d 171, 173 (2005).

³ *See Matter of Estate of Scheide*, 136 Nev. 715, 719–20, 478 P.3d 851, 855 (2020).

⁴ *See Cromer v. Wilson*, 126 Nev. 106, 110, 225 P.3d 788, 790 (2010).

the former property owner”⁵ The Court held that the word “shall” indicated that all excess proceeds not claimed within one year must be deposited into the county general fund. Therefore, all claimants must file before the deadline to receive their portions. One timely filed claim does not toll or terminate the one-year deadline for other claims.

The Court examined the legislative history of NRS 361.610(4) and held that it further supported this interpretation. Under a previous version of this statute, counties kept excess proceeds in the county general fund, with no way for property owners to claim them.⁶ In 1979, the legislature amended the statute to include a method for property owners to claim excess proceeds.⁷ However, it limited the length of time proceeds could be kept outside the county fund because it “would be a large revenue loss to the counties.”⁸

Artmor also argued that NRS 361.610 prohibited Nye County from paying out the proceeds to the other two claimants without also paying Artmor. The Court disagreed again. NRS 361.610(5) governs the priority of claimants and states “[i]f a person” files a claim within the deadline “the county treasurer shall pay the claim.”⁹ The Court held that the term “a person” signified that a county could pay a portion of the excess proceeds without distributing unclaimed portions to those who have failed to file a timely claim. The Court found the statute’s legislative history was consistent with this interpretation because the legislature created this subsection to specify the priority for companies who locate people entitled to the money in return for a cut of the proceeds rather than to compel counties to distribute the entirety of excess proceeds at once.¹⁰

Conclusion

The deadline for Artmor to timely file a claim for excess proceeds is not tolled or terminated because other former owners timely filed a claim for the same proceeds. Further, Nye County was not required to pay Artmor when it paid the claims of the former owners who timely filed claims because counties are not required to pay the entire sum of excess proceeds when only a portion is timely claimed. Therefore, the district court’s order is affirmed.

⁵ NEV. REV. STAT. 361.610(4) (2017).

⁶ See Hearing on S.B. 163 Before the S. Comm. On Taxation, 60th Leg., at 622 (Nev. Mar. 6, 1979).

⁷ See *Id.*

⁸ See *Id.*

⁹ § 361.610(5) (2017).

¹⁰ See Hearing on A.B. 585 Before the Assemb. Comm. On Taxation, 74th Leg., at 19–20 (Nev. Apr. 12, 2007).