

REL: December 6, 2019

Notice: This opinion is subject to formal revision before publication in the advance sheets of Southern Reporter. Readers are requested to notify the **Reporter of Decisions**, Alabama Appellate Courts, 300 Dexter Avenue, Montgomery, Alabama 36104-3741 ((334) 229-0649), of any typographical or other errors, in order that corrections may be made before the opinion is printed in Southern Reporter.

ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2019-2020

2180794

Timothy Lloyd Whitworth

v.

Crestwood Development Corporation, LLC,
and Anastasia Agrippa Jordan

Appeal from Jefferson Probate Court
(18-BHM-01128)

MOORE, Judge.

Timothy Lloyd Whitworth appeals from a judgment entered by the Jefferson Probate Court ("the probate court") granting his application for redemption of certain real property

2180794

located in Jefferson County ("the property") that had previously been sold for nonpayment of taxes to the extent that the probate court ordered that the funds paid for the redemption of the property be paid directly to Crestwood Development Corporation, LLC ("Crestwood"). We dismiss the appeal.

Procedural History

On May 15, 2018, Whitworth filed in the probate court an application for redemption of the property. Whitworth asserted:

"On or about March 3, 2008, the Probate Court ... rendered a decree for sale of [the] Property, for payment of State and County taxes then due from Herman Lloyd Whitworth et al.

"On or about May 20, 2008, under and in pursuance of said decree, the Property was regularly offered for sale by the Tax Collector for said taxes, fees, costs and expenses; the Property was bid in for the State of Alabama.

"On or about January 12, 2018, Anastasia Agrippa Jordan ... paid \$500.00 to buy [the] Property from the State Land Commissioner of Alabama, which issued its deed on [the] Property to Jordan. Jordan recorded said deed in the Office of the Judge of Probate of Jefferson County, Alabama, on February 7, 2018. ...

"On or about March 26, 2018, [Crestwood] paid \$600.00 to buy the Property from Jordan, who issued her deed on [the] Property to Crestwood. Crestwood

2180794

recorded said deed in the Office of the Judge of Probate of Jefferson County, Alabama, on the same day...."

Whitworth attached deeds supporting his allegations. In addition, Whitworth deposited with the clerk of the probate court the sum of \$11,040.37 ("the redemption funds"), which included the amount for which the property was sold to the state and interest thereon, subsequent taxes and interest thereon, and the fee for the redemption certificate.

Crestwood subsequently answered Whitworth's application for redemption, "den[ying] each and every allegation set forth" therein.

On February 6, 2019, the probate court entered an order stating that the application for redemption was granted. Subsequently, on February 21, 2019, the probate court entered a detailed judgment, stating, in part:

- "2. A Certificate of Redemption is authorized to be awarded to [Whitworth], allowing ... Whitworth to redeem the Property and transfer sole title of the Property to himself.
- "3. The Clerk of the Court is authorized to disburse the funds (previously paid into Court by [Whitworth]) being held by the Jefferson County Probate Court, in the amount of \$11,040.37, directly to [Crestwood]."

2180794

On March 12, 2019, Whitworth filed a motion to alter, amend, or vacate the probate court's judgment, challenging, among other things, the payment of the \$11,040.37 directly to Crestwood. He asserted that, pursuant to Ala. Code 1975, § 40-10-129, only the Jefferson County tax collector was entitled to the redemption funds. On March 12, 2019, the probate court entered an order altering its previous judgment, in part, by stating that the redemption funds should be paid directly to the Jefferson County tax collector.

On April 11, 2019, Crestwood filed a motion to alter, amend, or vacate the March 12, 2019, order, asserting that, pursuant to Ala. Code 1975, § 40-10-128, the redemption funds should be paid directly to it. On May 31, 2019, the probate court entered an order altering the March 12, 2019, order by stating that the redemption funds should be paid directly to Crestwood.

On June 18, 2019, Whitworth filed his notice of appeal to the Alabama Supreme Court; that court subsequently transferred the appeal to this court, pursuant to Ala. Code 1975, § 12-2-7(6).

Discussion

Before addressing the arguments advanced by Whitworth on appeal, we must first address an issue raised in Crestwood's appellee's brief to this court -- that Whitworth is "not the real party in interest in the matter of the distribution of the funds paid into the Probate Court." Crestwood's brief at p. 11.

"Appeals are 'not allowed for the purpose of settling abstract questions, however interesting or important to the public generally, but only to correct errors injuriously affecting the appellant.'" Alcazar Shrine Temple v. Montgomery Cty. Sheriff's Dep't, 868 So. 2d 1093, 1095 (Ala. 2003) (quoting 4 Am. Jur. 2d Appeal and Error § 182 (1962)). "[I]f there is nothing in the record prejudicial to the appellant, and the judgment is in his favor to the full extent claimed, there is nothing on which to predicate an appeal, and it is usual to dismiss it.'" Ex parte Jefferson Cty. Sheriff's Dep't, 13 So. 3d 993, 996 (Ala. Civ. App. 2009) (quoting Hamrick v. Town of Albertville, 223 Ala. 216, 217, 135 So. 326, 326 (1931)). See also Personnel Bd. of Jefferson Cty. v. Bailey, 475 So. 2d 863, 865-66 (Ala. Civ. App. 1985)

2180794

("[W]here a judgment is wholly in a party's favor and there is nothing prejudicial in the judgment no appeal lies to the prevailing party."); and Ex parte Weyerhaeuser Co., 702 So. 2d 1227, 1228 (Ala. 1996) ("Alabama caselaw is clear that a party who prevailed in the trial court can appeal only on the issue of adequacy of damages awarded.").

In the present case, Whitworth requested that the probate court allow him to redeem the property, and he paid to the clerk of the probate court the amount he asserted was necessary to redeem the property. The probate court granted the relief requested by Whitworth. On appeal, Whitworth challenges only the party to whom the redemption funds should be paid, not whether he should have to pay those funds. Although settling the question whether the redemption funds should be paid to Crestwood or to the tax collector is an important question, any error on that point does not injuriously affect Whitworth. See Alcazar Shrine Temple, 868 So. 2d at 1095. Because "'there is nothing in the record prejudicial to [Whitworth], and the judgment is in his favor to the full extent claimed, there is nothing on which to predicate an appeal.'" Ex parte Jefferson Cty. Sheriff's

2180794

Dep't, 13 So. 3d at 996 (quoting Hamrick, 223 Ala. at 217, 135 So. 2d at 326). We, therefore, dismiss the appeal. Id.

APPEAL DISMISSED.

Thompson, P.J., and Donaldson, Edwards, and Hanson, JJ.,
concur.