

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

IN RE:
LYCOMING COUNTY
TAX CLAIM BUREAU,

: NO. 18-0630
:
:
: CIVIL ACTION
:
: *Petition to Set Aside Judicial Sale*

OPINION & ORDER

Before the Court is Petitioner Shakira Allen's ("Allen") *Petition to Set Aside Judicial Sale*. On February 27, 2019, a hearing was held on this matter and the Court reserved decision. This is the Court's opinion on Allen's petition.

FINDINGS OF FACT

1. Allen is the owner and resident of 1652 Andrews Place, Williamsport, Pennsylvania 17701 (the "Property") in Lycoming County.
2. Due to Allen's failure to remain current on property taxes for 2015, the Property was exposed to a public upset sale on September 13, 2017.
3. The property was not sold.
4. On April 26, 2018, the Lycoming County Tax Claim Bureau ("Bureau") requested the right to list the Property for a judicial sale.¹
5. On April 30, 2018, a rule to show cause was issued upon Allen to show cause why such relief should not be granted.
6. On May 8, 2018, Allen was personally served at the Property regarding the rule to show cause.²
7. Allen failed to show cause.

¹ Exhibit A.

² Exhibit B.

8. On July 12, 2018, Allen made a payment of \$1,000.00 towards her delinquent 2015 taxes to the Bureau.³

9. After this payment, a \$503.27 deficit remained for her 2015 taxes, a \$1,350.47 deficit remained for her 2016 taxes, and a \$2,211.28 deficit remained for her 2017 taxes.⁴ The total claim balance after Allen's payment was \$4,065.02.⁵

10. Mr. Thomas D. Heap ("Heap"), Director of the Tax Claim Bureau for Lycoming County for the past twenty-two years, is required to approve any payment plans requested by a delinquent taxpayer.

11. Allen did not request a payment plan for her remaining tax deficient.

12. Additionally, neither Heap nor his office placed Allen on a payment plan for her remaining tax deficit.

13. On August 8, 2018, this Court allowed a judicial sale to proceed on September 12, 2018.

14. On, approximately, September 6, 2018, her children's father gave Allen \$5,000.00 towards various bills, including the delinquent taxes.

15. On September 13, 2018, the Property was sold at the judicial sale and Allen was notified by letter on September 13th of the sale.⁶

CONCLUSIONS OF LAW

16. Prior to an upset tax sale, "[a]ny owner or lien creditor of the owner may, *at the option of the bureau*, prior to the actual sale, (1) cause the property to be removed from the sale by payment in full of taxes which have become absolute and of

³ Exhibit C

⁴ *Id.* Allen had previously been notified of her delinquent 2016 taxes on February 10, 2016. Exhibit D.

⁵ *Id.*

⁶ Exhibit F.

all charges and interest due on these taxes to the time of payment, or (2) enter into an agreement, in writing, with the bureau to stay the sale of the property upon the payment of twenty-five per centum (25%) of the amount due on all tax claims and tax judgments filed or entered against such property and the interest and costs on the taxes returned to date. [. . .]”⁷

17. After an upset tax sale, a bureau may remove a subject property from further exposure to sale if the property owner makes full payment on all delinquent taxes, fees, and interest.⁸

18. Any other compromise reached between the owner and the bureau that is not prescribed by law is at the bureau’s discretion.⁹

19. Allen was delinquent on her tax payments and Heap did not exercise his discretion in setting up a payment plan for her.

⁷ 72 P.S. § 5860.603 (emphasis added).

⁸ 72 P.S. § 5860.618.

⁹ See *Sanders v. Westmoreland Cty. Tax Claim Bureau*, 92 A.3d 97, 100–01 (Pa. Commw. Ct. 2014) (“Even if, as Sanders argues, Rowe did not have the right to redeem her Property, the Bureau, could, in its discretion, still permit her to do so. It is well-established that ‘[t]he decision to accept any compromise of delinquent taxes ... is wholly within the discretion of the taxing authorities.’” (quoting *Mehalic v. Westmoreland Cnty. Tax Claim Bureau*, 534 A.2d 157, 159 (Pa. Commw. Ct. 1987))).

ORDER

AND NOW, for the reasons discussed above, Shakira Allen's *Petition to Set Aside Judicial Sale* is **DENIED**.

IT IS SO ORDERED this 22nd day of March 2019.

BY THE COURT:

Eric R. Linhardt, Judge

cc: Scott A. Williams, Esq. (Counsel for Petitioner)
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