

Circuit Court for Baltimore City
Case No. 24-C-21-000417

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1702

September Term, 2022

MIDARO INVESTMENTS 2020, LLC

v.

GLEND A. JOHNSON, ET AL.

Zic,
Ripken,
Salmon, James P.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Salmon, J.

Filed: January 18, 2024

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This appeal concerns a tax forfeiture action. The appellant is Midaro Investments 2020, LLC (“Midaro”). The appellees are the Mayor and City Council of Baltimore City (“the City”) and Glenda D. Laws (“Ms. Laws” or Ms. Johnson).¹

On January 25, 2022, Midaro obtained a judgment in the Circuit Court for Baltimore City foreclosing Ms. Laws’ right of redemption in the property that was the subject of a tax foreclosure sale. A motion to vacate or set aside the aforementioned judgment was filed by the City and Ms. Laws. The circuit court set aside the judgment based solely on the provisions of Md. Code (2019 Repl. Vol.), Tax-Property Article (“TP”) § 14-847(d), which reads:

(1) If the holder of the certificate of sale does not comply with the terms of the final judgment of the court within 90 days as to payments to the collector of the balance of the purchase price due on account of the purchase price of the property and of all taxes, interest, and penalties that accrue after the date of sale, that judgment may be stricken by the court on the motion of an interested party for good cause shown.

In this appeal, Midaro raises two issues, which we have reordered:

(1) Did the Circuit Court for Baltimore City err in striking Appellant’s enrolled Judgment under Tax-Sale Property § 14-847(d) of the Maryland Code Annotated, when the Court found there was no fraud or lack of jurisdiction, no interested party filed a motion to strike the judgment under § 14-847(d), there was no good cause shown, and the City’s motion to vacate was filed prior to 90 days of Judgment?

(2) Did the Circuit Court for Baltimore City err when it ruled on Appellees’ Motions to Vacate without the Appellees depositing the required redemption funds necessary, prior to or simultaneously with their motions to vacate, a condition precedent, to challenge a tax sale judgment as required by *Canaj, Inc., v. Baker & Div. Phase III, LLC*, 391 Md. 374 (2006)?

¹ Ms. Laws was formerly known as Glenda D. Johnson. In this opinion, we use the name Ms. Laws and Ms. Johnson interchangeably.

For the reasons set forth *infra*, we shall affirm the judgment entered by the circuit court.

I.

FACTUAL BACKGROUND

Ms. Laws owned rental property known as 4610 Belair Road, Baltimore, MD (“the Property”). She did not pay the City real estate taxes due on the Property and as a consequence, the City’s Director of Finance sold the Property at tax sale on July 20, 2020. The tax sale purchaser was Midaro. At the tax sale, Midaro bid \$75,000 on the Property, which was approximately \$102,000 less than its appraised value. But at that point, Midaro was only required to pay the outstanding taxes on the Property, which were \$1,080.62, plus the auction fees.

A little over six months later, on January 28, 2021, Midaro filed, in the Circuit Court for Baltimore City, a complaint to foreclose Ms. Laws’ right to redeem the Property.

In March 2021, Ms. Laws learned of the foreclosure action and contacted Berman Legal Services, the law firm that represented Midaro. She was advised as to the amount she would be required to pay Berman Legal Services in order to redeem the Property. The amount due was about \$2,500 representing attorney’s fees, title search fees and reimbursable expenses. Ms. Laws promptly paid the amount requested and, in return, an attorney from Berman Legal Services sent a letter to the City dated March 29, 2021, concerning the Property. The letter read:

The purpose of this correspondence is to release the above referenced property of our Law Office attorney’s fees, title search fees, and expenses good thru April 7, 2021. After this date, this release shall expire. Please note

the account of the above referenced property accordingly for the 2020 Tax Sale only. It is my understanding that the balance due for the 2020 taxes, if any, will be paid directly to Baltimore City upon which our Client will then receive the return of their tax sale payment, interest, and premium paid for the above referenced property. This Law Office Release Letter MUST be submitted by the tax payer to the Baltimore City Tax Sale Department. If you have any questions, please do not hesitate to contact me.

Ms. Laws then contacted the City to find out the amount of taxes she would have to pay in order to redeem the Property. She was advised that the taxes due totaled \$3,585.30.

On April 1, 2021, Ms. Laws purchased a cashier's check in the amount just mentioned and made it payable to the City's Director of Finance. She submitted this check to the City, as instructed, via a drop box outside the City's municipal building. The reason Ms. Laws did not deliver the check directly to a person at the municipal building was because the building was closed to the public due to the COVID-19 state of emergency.

When the Department of Finance received the cashier's check, it determined that the amount needed to pay back taxes and to redeem the Property was \$3,604.02, which was \$18.72 more than the amount of Ms. Laws' cashier's check. The City sent Ms. Laws' cashier's check back to her by mailing it to 4610 Belair Road, Baltimore, MD, which was the address of the Property on file with the Maryland Department of Assessments and Taxation ("SDAT"). Unfortunately, Ms. Laws did not receive the check because her mailing address was 5605 Old Court Rd., Windsor Mill, MD 21244 and her tenants, who lived at the Belair Road address, did not forward the check to her or otherwise alert her to the fact that the check had been returned. At that point, Ms. Laws believed that she had done everything necessary to redeem the Property.

About eight months later, Midaro learned that Ms. Laws had not paid the taxes due to the City. Midaro then proceeded with its suit to foreclose Ms. Laws’ right of redemption.

On January 25, 2022, the Circuit Court for Baltimore City entered judgment in favor of Midaro foreclosing Ms. Laws’ right of redemption on the Property.

Midaro, on April 5, 2022, obtained a writ of possession and attempted to evict Ms. Laws’ tenants from the Property. The tenants contacted Ms. Laws, at which point she realized for the first time that the January 25, 2022 judgment had been entered against her. Ms. Laws immediately contacted the City and told it that Midaro was attempting to take her Property even though she thought she had already paid the property taxes that the City had told her were due on it.

On April 13, 2022, seventy-eight (78) days after the judgment of January 25, 2022 was entered, the City, upon learning what had happened, filed a “MOTION TO REOPEN CASE AND VACATE JUDGMENT FORECLOSING RIGHT OF REDEMPTION AND REQUEST TO SET REDEMPTION AMOUNT.” That motion read, as follows:

[The City] moves this Court to Reopen the above captioned case, Vacate the Judgment Foreclosing the Right of Redemption and set the redemption amount, and for cause states:

1. Plaintiff [Midaro] purchased the property, known as 4610 Belair Road, via Tax Sale on July 20, 2020.
2. Plaintiff obtained a final judgment foreclosing the rights of redemption on said property on January 25, 2022.
3. Prior to Plaintiff obtaining a final judgment, Defendant [Ms. Laws] attempted to redeem her property.
4. Defendant contacted the Baltimore City Department of Finance and requested that they quote her a redemption amount.

5. Defendant was advised that she could redeem her property for \$3,585.30 and that this amount was good through April 25, 2021.
6. On April 1, 2021, Defendant presented a cashier’s check dated April 1, 2021 in the amount of \$3,585.30. *See* Cashier’s Check attached as **Exhibit 1**.
7. Upon processing the payment, it was determined that Defendant was quoted an incorrect redemption amount and therefore the payment was returned to Defendant on April 15, 2021 as there was not enough to redeem. *See* City of Baltimore Tax Sale Work Record attached as **Exhibit 2**.
8. The incorrect amount was not the fault of Defendant, it was an error of the Department of Finance in quoting an incorrect redemption amount. *See* Affidavit of Edward Scrivener attached as **Exhibit 3**.
9. Defendant attempted to redeem her property 9 months prior to the Judgment Foreclosing the Right of Redemption was entered.
10. This is Defendant’s primary residence^[2] and she should not lose her home due to an error [made by the City].
11. The City will reimburse plaintiff for fees associated with their purchase of the Tax Sale Certificate as well as fees incurred in obtaining the Judgment.

WHEREFORE, having shown good cause, Defendant, Mayor and City Council, respectfully requests this Honorable Court to Reopen this case, Vacate the Judgment Foreclosing the Right of Redemption and Set a Redemption Amount.

(Emphasis added.)

On April 27, 2022, which was 92 days after the judgment foreclosing her right of redemption was entered, Ms. Laws, *pro se*, filed a handwritten “Emergency Motion to

² The City was incorrect. As already mentioned, the Property was rented and Ms. Laws lived elsewhere.

Vacate Judgment.” That motion read as follows:

I am requesting a[n] exp[edited] - hearing for the following reasons.

1. My taxes for the year 2020 were paid in a timely manner (Exhibit 1).
2. The City acknowledges that my check was not processed due to their error (Exhibit 2, 3).
3. Attorney Berman [counsel for Midaro] has been notified several times via phone and mailed receipts of paid taxes that these taxes were paid. Yet he continued to pursue my home causing me harm.
4. All correspondence was mailed to my [rental] property address as opposed to my mailing address of record [which is] 5605 Old Court Road, Windsor Mill, MD 21244.

For the reasons listed above I am requesting a stay on the eviction proceeding and the judgment be vacated.

As mentioned, Midaro had earlier obtained a writ of possession of the Property and attempted to evict Ms. Laws’ tenants. But, on April 29, 2022, Baltimore City Circuit Court Judge Christopher L. Panos struck the writ of possession on the grounds, *inter alia*, that in its pleadings, Midaro had “fail[ed] to state that a deed was received [by it] or attach a copy of same.” Judge Panos, on the same date, ordered the City to provide an affidavit stating the correct amount, as of April 25, 2021, that it should have told Ms. Laws she needed to pay in order to redeem the Property.

Midaro, on May 3, 2022, filed a written opposition to the City’s motion to strike and to Ms. Laws’ motion to vacate. In its opposition, Midaro’s first argument read as follows:

Pursuant to the Annotated Code of Maryland – Tax Property Article § 14-845(a),

“A court in the State may not reopen a judgment rendered in a tax sale foreclosure proceeding except on the ground of lack of jurisdiction or fraud *in the conduct of the proceedings to foreclose (emphasis added)*; however, no reopening of any judgment on the ground of constructive fraud in the conduct of the proceedings to foreclosure shall be entertained by any court unless an application to reopen a judgment rendered is filed within 1 year from the date of the judgment.”

In this Court proceedings to foreclose, no Defendant has alleged a claim of lack of jurisdiction or fraud against the Plaintiff. The Court proceedings to foreclose in this matter were performed without fraud; specifically, there was no misrepresentation to this Court nor representation made to this Court of reckless disregard of the truth by the Plaintiff.

An error now admitted by [the City] with regards to the redemption amount after a final Judgment was issued by this Court **DOES NOT** fall within the intent of § 14-845 of the Tax-Property Article for the State of Maryland as no lack of jurisdiction or fraud *in the conduct of the foreclosure proceedings has occurred*. On this legal basis alone, this Honorable Court **must deny** both [Ms. Laws’] and the [City’s] Motions requests to vacate judgment.

Midaro’s second argument was based on the holding by the Maryland Supreme Court in *Canaj, Inc. v. Baker & Div. Phase III, LLC*, 391 Md. 374 (2006), which held that “in order to challenge the foreclosure of the equity of redemption in a tax sale, the taxes and other relevant charges acknowledged to be due, either prior to the challenge or simultaneously with it, must, as a condition precedent, be paid.” *Id.* at 396.

On May 5, 2022, the City provided an affidavit, as ordered by Judge Panos, stating that Ms. Laws would have needed to pay \$3,604.02 to redeem her Property, which was only \$18.72 more than the amount she had attempted to pay in April 2021.

On May 13, 2022, Baltimore City Circuit Court Judge Kendra Young Ausby ordered Ms. Laws to deposit \$3,604.02 into the court registry, which Ms. Laws did ten

days later.

Next, on June 10, 2022, Judge Panos, *sua sponte*, ordered Midaro to provide a verified answer as to the question “whether it ha[d] obtained a deed” for the Property. Three days later, Midaro filed a response stating that it had not obtained a deed but that it had “submitted a Deed” to the City.³

Baltimore City Circuit Court Judge John S. Nugent, on August 1, 2022, held a non-evidentiary hearing concerning the City’s motion to reopen case and vacate judgment foreclosing right of redemption and Ms. Laws’ “emergency motion to vacate judgment.” At the hearing, Ms. Laws and counsel for both the City and Midaro made oral arguments but no testimony was presented. Counsel for the City accurately set forth the factual background in this case and stressed that it was unfair for Ms. Laws to lose her property due to an error made by the City, i.e., giving her the wrong figure needed to redeem the Property. Ms. Laws made essentially the same argument as the City. Counsel for Midaro argued, as he had in Midaro’s written opposition, that under TP § 14-845 the only way that the judgment could be reopened was if there was proof of a lack of jurisdiction or fraud in the conduct of the foreclosure proceedings, but no such proof had been presented. Midaro’s counsel also argued that contrary to the holding in *Canaj, supra*, movants had not, prior to filing their motions, paid into court either the amount of taxes due or the legal fees owed to Midaro. According to Midaro, those legal fees were approximately \$394.00.

³ Midaro did not say whether it had paid the money to the City that was required in order to obtain a deed, i.e., \$75,000 less the small amount it paid on the date of the auction. *See* TP § 14-847(a). It later became clear, however, that it had not made that payment to the City.

Judge Nugent, on August 25, 2022, signed a memorandum and opinion that was docketed on September 15, 2022. In his written opinion, he began by saying:

The City and Ms. Johnson filed their motions to vacate more than 30 days after entry of the judgment but within the one-year statutory deadline. They argue that the judgment should be vacated and Ms. Johnson should be entitled to redeem the Property because the City made an error in quoting the redemption amount. While the error was due to no fault of Ms. Johnson, there is nothing to establish that the Court did not have jurisdiction to enter the judgment on January 25, 2022, nor is there evidence of fraud in the conduct of the proceedings to foreclose. Midaro complied with the statutory procedures for obtaining a judgment foreclosing rights of redemption. For these reasons, the motion to vacate judgment must be denied in accordance with TP § 14-845.

After denying the motion based on TP § 14-845, the court then segued into a discussion of a different matter:

While the judgment foreclosing rights of redemption may not be vacated under TP § 14-845, the City and Ms. Johnson are entitled to have the judgment stricken pursuant to TP § 14-847(d).

* * *

TP § 14-847(d) requires a plaintiff to comply with the terms of the judgment within 90 days, including obtaining a deed for the property by paying the balance of the purchase price and all taxes, interest, and penalties that accrue after the date of sale.^[4] Midaro has not timely complied with the judgment

⁴ Technically, TP § 14-847(d) does not “require” the tax sale purchaser to comply with the terms of the judgment within 90 days. And the tax sale purchaser did not forfeit its right to a deed simply because it has not paid the monies due under § 14-847(d) within 90 days. In *Slattery v. Friedman*, 99 Md. App. 106, 123 (1994), this Court said:

[D]uring the time that the holder of the certificate has not complied with § 14-847(d), that is, between 90 days after the judgment of foreclosure was entered and payment of the balance due, the owner may petition the court under § 14-847(d) to reopen the judgment, so long as the balance due remains unpaid. After payment of the balance due, however, the judgment may be reopened only pursuant to § 14-845, *i.e.*, on the grounds of fraud or lack of

(Continued)

by obtaining a deed for the Property. An Order striking writ of possession was entered on May 3, 2022, after Midaro failed to produce a deed for the Property in accordance with the terms of the judgment. While the City did not specifically reference TP § 14-847(d) in its motion, it did move to strike the judgment.

The City and Ms. Johnson have established good cause for vacating the judgment due to Midaro’s failure to comply with the terms of the judgment foreclosing rights of redemption. The record demonstrates that Ms. Johnson attempted to redeem the Property by paying the redemption amount quoted to her by the City. It was only through the City’s error that she was unable to redeem her Property. While the Court is mindful that there was no constructive fraud present here, there is good cause to strike the judgment in this case because Midaro did not comply with the judgment within 90 days. The General Assembly has made clear that the purpose of the tax sale statute “is to allow clear title to pass to the tax sale certificate holder – this is the ‘public policy of providing marketable title to property that is sold at a tax sale through the foreclosure of the right of redemption.’” *Kona Props. v. W.D.B. Corp.*, 224 Md. App. 517, 559 (2015). However, the General Assembly provided specific post judgment procedures to be followed by the judgment holder and the consequences for failure to do so. Accordingly, the judgment will be stricken and Ms. Johnson will be given the opportunity to redeem the Property.

(Emphasis added.)

Judge Nugent signed an order on August 25, 2022, striking the January 25, 2022 judgment, but that order was not docketed until September 15, 2022. The order: (1) granted the City’s motion to reopen and vacate judgment and Ms. Laws’ emergency motion to vacate judgment; (2) ordered that the judgment foreclosing rights of redemption entered on January 25, 2022, be vacated, (3) ordered that Ms. Laws “shall be given the right to redeem the Property by taking all steps necessary for redemption within thirty (30) days from entry

jurisdiction, regardless of whether the payment was made after the petition was filed.

of this order; and (4) ordered that the parties “shall agree on the amounts and procedure necessary for redemption, including submitting any proposed orders for payment from the court registry[.]”

On September 20, 2022, Midaro filed a “MOTION TO ALTER OR AMEND THE COURT ORDER DATED AUGUST 25, 2022 AND REQUEST FOR A NEW HEARING.” The only substantive argument made by Midaro in that post-trial motion was as follows:

- In the Court’s Memorandum and legal analysis, the Court ignored Plaintiff’s argument regarding the Maryland [Supreme Court’s] precedent set in *Canaj, Inc. v. Baker & Div. Phase III, LLC*, 391 Md. 374 (2006) (“*Canaj, Inc.*”) argued by Plaintiff in Plaintiff’s Response and at the August 1, 2022 hearing.
- Plaintiff again argues, and at the August 1, 2022 hearing the Court recognized, that the Motion to Vacate Judgment **must be denied** pursuant to *Canaj, Inc.* The Maryland [Supreme Court] specifically concluded in *Canaj, Inc.* that, “in order to challenge the foreclosure of equity of redemption in a tax sale, the taxes and other relevant charges acknowledged to be due, either prior to the challenge or simultaneously with it, must, as a condition precedent, be paid (emphasis added).”
- Pursuant to *Canaj, Inc.*, the Defendants were required to pay all necessary redemption amounts to the Collector **prior to or simultaneously with** Defendants’ Motions. Only after Ms. Johnson was directed by Court Order dated May 13, 2022, did she allegedly deposit \$3,604.02 into the Court registry on May 23, 2022. The \$3,604.02 represents the amount the City stated was necessary to redeem the Property. Plaintiff notes that the full redemption amount includes attorney’s fees due to Plaintiff’s Attorney. There are currently legal fees due to Berman Legal Services that, to date, have not been paid, but were required to be paid pursuant to *Canaj, Inc.* prior or simultaneously with Defendants’ Motions to Vacate.
- Plaintiff further argues that the Court erred in addressing any substantive legal issues, as the Defendants’ Motions to Vacate should have been denied based solely on failure of the Defendants to meet the procedural

requirement of *Canaj, Inc.* and that this Honorable Court’s Order dated August 25, 2022, granting the Defendants’ Motions must be reversed as a matter of Maryland law.

- Considering that the Court has acknowledged that “Midaro complied with the statutory procedures for obtaining a judgment foreclosing rights of redemption”, that the Property was not redeemed by the Defendants before Judgment was awarded by the Court, and that the Defendants have not met the condition precedent required by *Canaj, Inc.*, Plaintiff respectfully argues that the Circuit Court for Baltimore City **must reverse** its Order granting the Defendants’ Motions to Vacate.

Wherefore, for the reasons stated above, Plaintiff moves this Court to alter or amend its Order dated August 25, 2022 and reverse said order granting the City’s and Ms. [Laws’] Motions to Vacate and reinstate Plaintiff’s Judgment.

Plaintiff requests a new hearing.

Judge Nugent, on October 28, 2022, denied the motions to alter or amend without a hearing. Midaro filed a timely appeal to this Court on November 16, 2022.

In regard to Question 1, Midaro makes several arguments, which are all discussed below.

A. First Argument

Midaro argues:

Neither Appellee argued to strike the Appellant’s Judgment under TP § 14-847(d). As explained above, the City’s Motion to Vacate was filed prematurely and therefore it cannot be concluded that the City intended to strike the Appellant’s Judgment under TP § 14-847(d). Glenda Laws also did not argue to strike Appellant’s Judgment under § 14-847(d) and the language of her Emergency Motion to Vacate did not imply that it was her intention to do so. The Circuit Court in its Memorandum states, “While the City did not specifically reference TP § 14-847(d) in its motion, it did move to strike the judgment.” [Judge Nugent] has interpreted the language of § 14-847(d)(1), specifically, “on the motion of an interested party . . .” to mean that a trial court can use its discretionary power to strike a final tax sale judgment by applying § 14-847(d)(1) to an interested party’s Motion to

Vacate Judgment even though the interested party did not move the Court to strike judgment under § 14-847(d)(1) and did not use any language that would imply it was their intention to do so. Appellant argues that this is an incorrect application of § 14-847(d)(1) and that absent a specific § 14-847(d)(1) motion to strike filed by an interested party, the Circuit Court cannot, on its own, order that the Appellant’s Judgment be stricken under § 14-847(d)(1) and it was an abuse of discretion by the Circuit Court to have done so even if the Appellant did not pick up the deed within 90 days of Judgment. *Slattery v. Friedman*, [99 Md. App. 106, 123 (1994)].

This argument is not preserved for our review because it was never raised in the circuit court. When Midaro filed its motion to alter or amend judgment it did not argue, as it does now, that Judge Nugent should not have considered the applicability of TP § 14-847(d) because § 14-847(d) was never even mentioned in appellees’ motions to vacate. As a result, that argument is not preserved for appellate review.

In *Cohen v. Cohen*, 162 Md. App. 599 (2005), a similar issue was presented. In that case, we said:

Mr. Cohen contends that the trial court erred in conditioning his custody right on his abstention from alcohol. In support of that contention he argues: (1) the alcohol restriction was not pled or otherwise asked for in any pleading filed by appellee; (2) there was no basis for the imposition of an alcohol restriction; and (3) the alcohol restriction was “not predicated upon any necessary circumstance.”

In contrast to the position he takes on appeal, Mr. Cohen never complained in the circuit court that Mrs. Cohen had not properly asked in her pleadings that the court impose, as a condition to custody/visitation, that he completely abstain from alcohol. Appellant had ample opportunity to raise this issue when he filed his motion to alter or amend judgment and raised unrelated objections to the alcohol restriction.

Maryland Rule 8-131(a) provides, in pertinent part, that except for issues of jurisdiction, an appellate court will not ordinarily “decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court.” Because this pleading issue was not raised either at trial or in post-trial proceedings, or decided by the trial court, the issue has not

been properly preserved for our review.

Id. at 607-08 (emphasis added).

As in *Cohen*, Midaro had “ample opportunity” to raise this pleading issue when it filed its motion to alter or amend, but raised unrelated objections to Judge Nugent’s decision. Therefore, pursuant to the dictates of Md. Rule 8-131(a), we shall not decide the pleading issue presented.

B. Second Argument

According to Midaro:

A threshold requirement of TP § 14-847(d)(1) is that 90 days must pass before an interested party can move the Circuit Court to vacate under this statute. Appellant argues that it was a clear abuse of discretion by the Circuit Court to grant Appellee’s Motion to Vacate based on § 14-847(d)(1), as the City’s Motion to Vacate was filed prematurely.

This argument was never raised by appellant in its motion to alter or amend, although it could have been. We therefore shall not decide this issue. *See Cohen*, 162 Md. App. at 607-08.⁵

⁵ Even if the preservation issue did not exist, it does not appear that the “too early” argument has merit. It is true that the motion to vacate should not have been filed until 90 days after the judgment in favor of Midaro was entered. This means that the court, of course, could not grant the City TP § 14-847(d) relief until 90 days has expired. But after 90 days, if the successful bidder has still not fulfilled its obligation under the judgment, we see no reason why the court would still not have discretion to vacate the sale pursuant to TP § 14-847(d). If the rules were otherwise, the City, in any case where it prematurely files a motion under TP § 14-847(d), would be blocked from collecting the taxes due from the successful bidder at the tax sale due to that technicality. Midaro cites no authority, and we know of none, supporting the principle that an interested party forfeits its right under TP § 14-847(d) simply because its motion was filed too early.

C. Third Argument

Midaro next contends:

The Memorandum issued by Judge Nugent concludes, “. . . there is good cause to strike the judgment in this case because Midaro did not comply with the judgment within 90 days.” The Court’s sole recitation that Midaro did not comply with the judgment prior to 90 days from the date of Judgment, which neither Appellee argued, does not rise to the level of good cause that would be reasonable under § 14-847(d)(1). *Kona Properties, LLC v. W.D.B. Corp.*, [224 Md. App. at 548].

Midaro’s “sole basis” argument takes what Judge Nugent wrote out of context.

Immediately after the sentence Midaro quotes, the judge adopted the reasons set forth in appellees’ post-trial motion as to why the judgment should be set aside. He said:

The record demonstrates that [Ms. Laws] attempted to redeem the Property by paying the redemption amount quoted to her by the City. It was only through the City’s error that she was unable to redeem the Property.

In context, we interpret Judge Nugent’s words as meaning that appellees had shown good cause because it would be inequitable for Ms. Laws to lose her property through no fault on her part. That inequity plainly constituted good cause.⁶

II.

ISSUE TWO

Midaro argues that the court erred when it ruled on appellees’ motions to vacate without the appellees depositing the required redemption funds necessary prior to or simultaneously with their motions to vacate. According to appellant, *Canaj*, 391 Md. 374,

⁶ In its reply brief, Midaro admitted that the judgment foreclosing Ms. Laws’ right of redemption was entered without any fault on Ms. Laws part. According to Midaro, “Ms. Laws has a legitimate negligence claim against the City . . .” but that was her only remedy.

established that such payments are a condition precedent to making any challenge to a tax sale. The rule relied on by Midaro was expressed in *Canaj* as follows:

We have never overruled the holding of our cases that where it is admitted (or proven) that there are delinquent taxes due, in order to challenge the holding or ratification of the tax sale or to seek to vacate a judgment of the foreclosure of the equity of redemption, the taxpayer must first pay to the Collector or the certificate holder the total sum of the taxes, interest, penalties and expenses of the sale that are due. While not recently addressed, it remains the law in this State.

Several other states adhere to the principle that, in order to sustain a claim to void a tax sale, the delinquent taxpayer must tender the amount owed in taxes. *Fibelstad v. Grant County*, 474 N.W.2d 54 (N.D. 1991); *Ottaco Acceptance, Inc. v. Huntzinger*, 682 N.W.2d 232 ([Neb.] 2004); *Liggett v. Church of Nazarene*, 724 S.W.2d 170, 172-73 ([Ark.] 1987) (holding that the property at issue was church property and accordingly exempt from taxes but noting that generally under a statute a claimant must file an affidavit that he has first “tendered . . . the full amount of all taxes and costs” in order to challenge the validity of a tax sale); *Kapp v. Vahlberg*, 299 P.2d 159, 161-62 (Okl. 1956) (holding that where an actual tender is asserted in the pleadings the timing of the deposit of the sum is at the court’s discretion so long as the sum is deposited before any judgment in favor of the taxpayer is rendered).

391 Md. at 391-92.

There are two appellees in this case. Midaro contends that the City’s motion should have been rejected for failure to make the prepayment required by *Canaj*. In its brief, the City argues:

The *Canaj* rule requiring payment applies to challenges to the tax sale proceeding under TP § 14-845, not to attempts to strike judgment (and allow redemption) under TP § 14-847(d).

In support of that argument, the City asserts:

The most obvious clue that *Canaj* does not apply to the ability to strike judgment under TP § 14-847(d) is the fact that the *Canaj* Court never mentions this provision at all. See 391 Md. 374. Rather, *Canaj* dealt only with an attempt to void a tax sale altogether under TP § 14-845, because the

prior owner alleged fraud or lack of jurisdiction. *Id.* at 401. (“In the context of tax sales, a judgment foreclosing an owner’s right of redemption can be reopened, after thirty days have passed, on the grounds of lack of jurisdiction or fraud. TP § 14-845(a.)”); *see also id.* at 415-16, 426-27. That the high court discussed its holding in terms of “challenge[s to] the foreclosure of the equity of redemption in a tax sale” merely reflects that this is what is happening, by definition, in a challenge under TP § 14-845(a). *Id.* at 396.

We agree with the City that the *Canaj* rule applies to cases brought under § 14-845(a) of the Tax Property article and not to motions brought by most “interested parties” under § 14-847(d) of that article.

Under § 14-847(d), an “interested party” may move to strike a judgment for good cause shown. In this case, it is undisputed that the City is an interested party. Although not applicable in this case, an interested party under § 14-847(d) could be a party that leases the property or the holder of a mortgage on the property or the delinquent taxpayer. But the *Canaj* prepayment requirement applies only to “taxpayers.” *See* excerpt from *Canaj* quoted *supra* at 15-16.

The City, of course, is not a “taxpayer.” It is the entity that is owed taxes. As the City points out in its brief, it would be absurd to require the City to pay back taxes owed to it and interest owed on those taxes as a prerequisite to filing suit under § 14-847(d)(1).

No case has been cited by Midaro that stands for the principle that the municipality (or other government agency) that is owed the taxes must pay itself the taxes others owe it prior to filing a motion under § 14-847(d)(1). Such a requirement would serve no conceivable purpose and would not fulfill the purpose for the *Canaj* rule, which was expressed in *Quillens v. Moore*, 399 Md. 97 (2007), quoting *Canaj*, 391 Md. at 396 as follows:

If we were to overrule our cases holding that payment is first required, the City would be left where it was before the tax sale. The public would be burdened perpetually with the problems created by the thousands of abandoned properties, which the delinquent owners would be unlikely to ever pay taxes on or ever to rehabilitate.

For the above reasons, we hold that the City was not required to pay back taxes or other monies as a condition precedent to filing a § 14-847(d)(1) motion.

Midaro also argues that the court should not have ruled on Ms. Laws' motion to vacate because she did not, prior to filing her motion, make the payment required by *Canaj*. We need not decide that issue.

Even assuming that Ms. Laws' motion should have been stricken for failure to make the requisite *Canaj* payment prior to filing her motion, the outcome of this case would not change. After all, the City's motion to strike the judgment was appropriately granted. Once that motion was granted, it would not matter whether Ms. Laws' motion was granted or denied.

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE CITY AFFIRMED;
COSTS TO BE PAID BY APPELLANT.**