

Circuit Court for Baltimore County
Case No. 03-C-18-011369

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 981

September Term, 2020

ROBERT A. DICICCO

v.

COACHFORD PROPERTIES, LLC

Arthur,
Leahy,
Reed,

JJ.

Opinion by Leahy, J.

Filed: May 18, 2022

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

This appeal arises from a judgment of the Circuit Court for Baltimore County foreclosing the rights of redemption for the real property located at 405 W. Central Avenue, Towson, Maryland 21204 (the “Property”).

The Property was sold at a tax sale in 2016 after its former owners, Mr. Robert DiCicco, appellant, and his wife, Ms. Emily DiCicco (collectively “the DiCiccos”), failed to pay the requisite property taxes for twelve years—from 2004 to 2016. Several years after the sale, the purchaser, Coachford Properties, LLC, (“Coachford”), filed a complaint in the Circuit Court for Baltimore County seeking to foreclose the DiCiccos’ right of redemption for the Property. Mr. DiCicco filed a motion for a more definite statement and, subsequently, an answer. In both pleadings, Mr. DiCicco maintained, among other things, that the redemption price listed in Coachford’s complaint was inaccurate. After a plethora of procedural hurdles and snafus, the circuit court, without holding a hearing, entered judgment foreclosing the DiCiccos’ right of redemption on January 29, 2020. The court found that a hearing was not necessary, as Coachford had “satisfied all statutory requirements” necessary to foreclose the equity of redemption and a “further review” of Mr. DiCicco’s answer revealed that it raised “no justiciable issues.”

In October 2020, the circuit court denied Mr. DiCicco’s motion for a new trial and for judgment notwithstanding the verdict and/or to revise the judgment. The court reasoned that foreclosing the right of redemption was “appropriate,” as Coachford had “complied with all requisite filings and notices.” Mr. DiCicco appealed and presents two issues for our review, which we reorder and rephrase as:

- I. Did the circuit court err by not fixing the redemption amount in accordance with Maryland Code (1985, 2012 Repl. Vol., 2014 Supp.), Tax Property Article, § 14-829(a)?
- II. Did the circuit court err by foreclosing Mr. DiCicco’s right of redemption without holding a hearing?¹

Because Mr. DiCicco properly disputed the redemption amount, *see Thornton Mellon, LLC v. Adrienne Dennis Exempt Tr.*, 250 Md. App. 302, n.7 (2021), *aff’d*, ___ Md. ___, No. 28, September Term 2021 (filed Apr. 25, 2022), we conclude that the circuit court erred by foreclosing his right of redemption without fixing the amount necessary for redemption. Therefore, we vacate the judgment of the circuit court and remand this case for the court to fix a redemption amount and provide Mr. DiCicco with a reasonable redemption period. We also hold that under the tax sale statute, Mr. DiCicco was not entitled to a pre-judgment hearing on the merits of the defenses raised in his answer.

¹ The “issues presented” in Mr. DiCicco’s brief are stated as follows:

I. “Whether the trial court committed reversible error, where the court record revealed that all parties were awaiting a trial after the Appellant had filed an Answer to Complaint on Jul[y] 1, 2019 and there was no request, motion or petition asking for judgment when the Court entering of Judgment to Foreclose Appellants’ Right of Redemption of property sold at tax sale, without allowing them a trial on the merits; or, at least, granting them the opportunity to be heard.”

II. “Whether the trial court committed reversible error in failing, after requested, to fix the amount necessary for Appellants to Redeem their property as required by law.”

BACKGROUND

Tax Sale and Bankruptcy Case

The DiCiccos² became the fee simple owners of the real property located at 405 W. Central Avenue, Towson, Maryland in June 1981. After they failed to pay taxes on the Property between 2004 and 2016, the Baltimore County Office of Budget and Finance sold the parcel to Coachford Properties, LLC at a tax sale on June 3, 2016. Coachford purchased the Property for \$315,000.00, and immediately paid \$110,609.70, which represented “the total amount of taxes due on the [P]roperty [] at the time of sale, together with interest and penalties thereon and expenses incurred in making the sale.” Immediately after sale, the Property was “subject to redemption” but the certificate of tax sale noted that Coachford was eligible to bring a proceeding to “foreclose all rights of redemption” after December 3, 2016.

² Although Mr. DiCicco filed a notice of appeal in this case “on behalf of the Defendants,” he was the only party to sign the notice. Maryland Rule 1-311(a) permits attorneys to sign pleadings on behalf of clients but requires that “[e]very pleading and paper of a party who is not represented by an attorney. . . be signed by the party.” This Court has previously held that “[t]he failure of [] *pro se* individuals listed as appellants to sign the notice of appeal disqualifies them as appellants.” *Floyd v. Mayor & City Council of Balt.*, 179 Md. App. 394, 450 (2008), *aff’d*, 407 Md. 461 (2009). Mr. DiCicco was formerly a member of the Maryland Bar, but he was suspended indefinitely from the practice of law in 2002 and 2003. *See Att’y Grievance Comm’n v. DiCicco*, 369 Md. 662, 688 (2002); *Att’y Grievance Comm’n v. DiCicco*, Misc. Dkt. AG, No. 2, Sept. Term 2002 (unpublished). Because Mr. DiCicco has not been reinstated, he “cannot represent other individuals in a legal capacity.” *Floyd*, 179 Md. App. at 427. Accordingly, Mr. DiCicco is the only proper appellant in this appeal.

One month after the Property was sold, Mr. DiCicco filed a petition for voluntary Chapter 11 Bankruptcy in the United States Bankruptcy Court for the District of Maryland.³ Mr. DiCicco’s petition estimated his liabilities to be between \$500,000.00 and \$1,000,000.00 and his creditor matrix listed two creditors, OCWEN Loan and Franklin

³ While the record contains several orders from Mr. DiCicco’s bankruptcy case, including the order ultimately dismissing his petition, several critical documents are omitted. Under Maryland Rule 5-201(c), appellate courts can, “whether requested or not,” take judicial notice of “matters of common knowledge or [those] capable of certain verification,” *Dashiell v. Meeks*, 396 Md. 149, 174-75 (2006) (quoting *Faya v. Almaraz*, 329 Md. 435, 444 (1993)). Facts “capable of certain verification” include facts which “are capable of immediate and certain verification by resort to sources whose accuracy is beyond dispute.” *Id.* (quoting *Faya*, 329 Md. at 444). The Court of Appeals has held that judicial notice of prior proceedings should be taken only in “exceptional cases, where the requirements of logic are overcome by the demands of justice[.]” *Id.* at 176-77 (internal citation omitted).

The documents in Mr. DiCicco’s bankruptcy case are “capable of certain verification” and are “accurate beyond dispute” as they are publicly available on the Federal Court’s “Public Access to Court Electronic Records (PACER)” service. *See Marks v. Crim. Injuries Comp. Bd.*, 142 Md. App. 37, 78 (2010) (“It is widely accepted that judicial notice of court records extends to records that are accessed through the Internet.”). In this appeal, the demands of justice require taking judicial notice of certain documents in Mr. DiCicco’s bankruptcy case. Mr. DiCicco argues that the circuit court foreclosed his right of redemption in violation of the bankruptcy court’s stay. We have previously held that “an action in violation of the stay is void *ab initio*” and a “state court lacks subject matter jurisdiction over a civil action commenced during the automatic stay[.]” *Kochhar v. Amar Nath Bansal*, 222 Md. App. 32, 42-43 (2015). Therefore, in order to evaluate Mr. DiCicco’s challenge to the validity of the circuit court’s order, in addition to the bankruptcy documents included in the record, we exercise our discretion under Maryland Rule 5-201 to take judicial notice of the following documents from Mr. DiCicco’s bankruptcy case (No. 16-9449): (1) the docket; (2) Mr. DiCicco’s bankruptcy petition (ECF No. 1); (3) Coachford’s motion for relief from stay (ECF No. 86); (4) the court’s amended order granting relief from stay (ECF No. 101); (5) Mr. DiCicco’s motion to alter or amend the court’s dismissal of the case (ECF No. 225); and (6) the court’s denial of Mr. DiCicco’s motion (ECF No. 226).

Credit. The filing of Mr. DiCicco’s petition triggered an automatic stay of, among other things:

(1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under [the Federal Bankruptcy] title, or to recover a claim against the debtor that arose before the commencement of the case under this title

* * *

(3) any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate[.]

11 U.S.C. § 362(a)(1), (3). Coachford, in March 2018, petitioned the bankruptcy court to exclude the Property from the automatic stay, which would allow it to “pursue its rights under state law to file a timely complaint to foreclose the right of redemption and issue such notices prior thereto as required by state law.” The following month, the bankruptcy court granted Coachford’s motion and modified the automatic stay to exclude the Property. The court modified its order several months later, in August 2018, to specify that Coachford could “file a complaint to foreclose the right of redemption” on the Property but could not file an “affidavit of compliance” or pay the “the Director of the Office of Budget and Finance for Baltimore County . . . the balance of the purchase price for the Certificate of Tax Sale . . . for the Property” without obtaining further relief from the stay.

Complaint to Foreclose the Equity of Redemption

In November 2018, Coachford filed a complaint in the Circuit Court for Baltimore County to foreclose the DiCiccós’ rights of redemption for the Property. The complaint stated that, to redeem the Property, the DiCiccós had to pay “the purchase price, together

with interest . . . [a]nd all taxes, other municipal liens . . . together with interest and penalties thereon, and the total disbursements made by the Plaintiff,” which, at the time of sale, was calculated as \$110,609.70. Coachford asked that the court: (1) “pass a Final Decree foreclosing all rights of redemption of all Defendants and of all persons having or claiming to have any interest in” the Property; (2) “pass a Final Decree vesting in [Coachford] an absolute and indefeasible title” to the Property; (3) issue writs of subpoena for, among other people, the DiCiccos; and (4) publish a notice to all parties with an interest in the Property.

The circuit court subsequently issued summons for the DiCiccos in November 2018. The court reissued summons for Mr. DiCicco on January 30 and February 18, 2019 and reissued summons for Mrs. DiCicco on February 11, 2019. The summonses established that the DiCiccos were required to “file a written response by pleading or motion” within “30 days after service of [the] summons[.]”

Mr. DiCicco filed a motion for a more definite statement on March 12, 2019.⁴ He averred that Coachford’s complaint failed “to state any particulars regarding the \$110,609[] claimed as unpaid real estate taxes owed on the [P]roperty.” In Mr. DiCicco’s view, “the

⁴ The parties acknowledge that several documents in the record extract, including the motion for a more definite statement, could not be viewed “in the file supplied by the clerk.” Mr. DiCicco certified that the replacement documents “are true cop[ies] of the document[s] submitted for filing”; however, our review of the circuit court record reveals that several of the documents included in the record extract are incomplete or modified as compared to the documents contained in the official record. Accordingly, we rely on the original documents contained in the record rather than the replacement documents offered by Mr. DiCicco.

actual real estate taxes assessed for the subject property . . . are substantially less than Baltimore County certified under oath in the tax sale certificate[.]” Given the discrepancy, he asserted that he was entitled to know “the tax period involved, the property description, [and] the actual real estate tax unpaid for that property.” He also asserted that Coachford was required to provide a “particularized review of any monies claimed to be owed as taxes together with the basis or reason for the charges.” Given that this information was not in or attached to the complaint, Mr. DiCicco requested that the court: (1) “[d]ismiss the complaint and restore the [P]roperty to the defendants”; (2) “[s]chedule a hearing on all issues raised herein”; and (3) “[e]nter a stay of all proceedings, including a stay[] on the foreclosure of the right of [d]efendants to redeem the [P]roperty in question pending such hearing.”

Coachford countered that Mr. DiCicco’s motion was “utterly without merit and [was] designed to unduly delay, hinder, and impede” the foreclosure proceeding. In its view, the complaint was fully compliant with the Tax-Property Article of the Maryland Code.⁵ A hearing on the motion for a more definite statement was not required, Coachford averred, as the motion “present[ed] a single, discreet, straightforward, non-novel issue of law, not requiring the submission of any evidence and [was] resolvable by reference to the papers in the record and existing law.” In lieu of a hearing, Coachford suggested that the court “treat the [m]otion as a request to set the amount necessary to redeem the subject

⁵ Specifically, Coachford argued that the complaint complied with Maryland Code (1985, 2012 Repl. Vol., 2014 Supp.), Tax-Property Article, § 14-835(a).

property[.]” The circuit court, after finding that the complaint was sufficient, denied Mr. DiCicco’s motion.

On July 1, 2019, Mr. DiCicco filed an answer generally denying the allegations in the complaint.⁶ Mr. DiCicco also asserted that Coachford’s complaint failed “to state a claim upon which relief can be granted” and that the tax sale and subsequent action to foreclose the equity of redemption were “illegal, fraudulent and/or [] void ab initio” as Coachford had “no legal basis” to undertake the proceedings against him. Additionally, he averred that the proceeding was barred by the bankruptcy court’s automatic stay. Should the court find that Coachford’s claim could proceed, Mr. DiCicco argued that the redemption amount listed in Coachford’s complaint was “incorrect,” as part of the figure was “invalid and [was] not legally permitted to be part of the tax sale proceeding.”

Approximately three months after Mr. DiCicco’s answer was filed in the circuit court, on October 18, 2019, the bankruptcy court dismissed his federal case. The bankruptcy court concluded that Mr. DiCicco’s case was filed in “both subjective bad faith and objective futility.” The court, therefore, prohibited him, “for a period of five years,” from filing “any petitions under any chapter of the Bankruptcy Code . . . in any court in the United States.”

⁶ We note that the circuit court denied Mr. DiCicco’s motion for a more definite statement on May 22, 2019. Under Maryland Rule 2-321(c), Mr. DiCicco had 15 days from the court’s order to file his answer. Therefore, his July 1, 2019 filing was not timely. Nonetheless, as Coachford “did not seek to strike the answer on the ground of untimeliness, that issue is now moot.” *Cnty. Comm’rs of Carroll Cnty. v. Carrol Craft Retail, Inc.*, 384 Md. 23, 35 n.6 (2004).

On the same day that Mr. DiCicco’s bankruptcy case was dismissed, Coachford filed an “Affidavit of Compliance” with the circuit court. The affidavit, signed by counsel for Coachford, affirmed that a title search on the Property was completed “immediately before the institution of the suit.” Counsel for Coachford also affirmed that, in December 2018, the sheriff had posted notice of the foreclosure complaint on the Property, and that later the same month, an occupant letter was sent to the Property. An order of publication, counsel represented, had also been published in the Daily Record once a week for three successive weeks. After these steps were taken, the DiCiccos were served by certified mail, return receipt, restricted delivery, at their residence in Homosassa, Florida.

After the “Affidavit of Compliance” was received, the circuit court scheduled a hearing in the case for January 15, 2020.⁷ Mrs. DiCicco moved to postpone the hearing, as it conflicted with a previously scheduled medical procedure. Coachford opposed Mrs. DiCicco’s request, arguing that the DiCiccos had “made [every] attempt to stall these proceedings” and that it would “incur substantial loss” if the court “allows the [d]efendant to continue to stall [the] foreclosure action[.]”

In an order docketed on January 7, 2020, the circuit court canceled the hearing, but also declared that it would grant Coachford’s request for judgment foreclosing the right of redemption. The court explained that the hearing was originally scheduled to resolve

⁷ The hearing notice does not specify what matters would be addressed at the hearing. Although the notice is dated December 9, 2020, it was not marked as “received” by the clerk’s office until February 4, 2020 and does not appear anywhere on the circuit court docket.

matters raised in Mr. DiCicco’s answer; however, a closer review of the answer revealed “no justiciable issue requiring a hearing.” Therefore, the court found no need to reschedule the hearing, and, after finding that Coachford had “satisfied all statutory requirements in th[e] matter,” stated that it would “grant [Coachford’s] request for [j]udgment[.]” Several weeks later, on January 29, 2020, the circuit court issued an order of judgment foreclosing the right of redemption on the Property.

Post-Judgment Motions

On January 10, 2020, several days after the court issued its order cancelling the hearing and acknowledging that it would grant Coachford’s request to foreclose the right of redemption on the Property, Baltimore County filed a motion for payment of surplus funds. The County had, in September 2015, obtained a judgment against the DiCiccos in the Circuit Court for Baltimore County. As of January 2020, the original judgment, and the accrued interest, totaled \$224,288.07. The County requested that the court order that its judgment be paid out of the \$227,216.37 surplus that resulted from the tax sale of the Property. This motion was not opposed by the DiCiccos. The court issued the order requested, but soon reversed course after the Attorney Grievance Commission of Maryland (“AGC”) also filed a motion for payment against the surplus funds on January 24, 2020.⁸

During his tenure as a member of the Maryland Bar, Mr. DiCicco was the subject of two attorney discipline cases. **MDEC**. Both cases resulted in the Court of Appeals

⁸ The circuit court granted the County’s motion on January 31, 2020. However, after receiving the Attorney Grievance Commission’s motion, the court struck its order on February 14, 2020 and ordered that a hearing be scheduled to “resolve all open motions.”

entering monetary judgments against Mr. DiCicco in favor of the AGC. The judgments, with the accrued interest, totaled \$13,565.89. The AGC argued that it was entitled to collect this amount from the tax sale surplus, and, because its judgments pre-dated the County's judgment, that it was entitled to be paid before the County could collect from the surplus. The motion was not opposed by the DiCiccos or Baltimore County.

On January 27, 2020, Mr. DiCicco filed a “motion for a new trial, to alter or amend, and/or to revise judgment.” (Capitalization omitted). He argued that the circuit court erred by denying his motion for a more definite statement, as he was denied the opportunity to “obtain the most basic information pertinent to a[] Tax Sale Certificate, the actual real estate taxes in arrears, because the certificate is too vague as to what taxes were claimed as being unpaid.” Depriving him of this information was significant, he averred, as, in his view, the real estate taxes owed on the Property were “substantially less than Baltimore County had certified.”

The circuit court, according to Mr. DiCicco, also violated the bankruptcy court's automatic stay of proceedings when it foreclosed his right of redemption on the Property. In his view, violation of the automatic stay required that the court “strike any judgment to foreclose equity of redemption and reinstate the matter for trial, pending release of Bankruptcy stay.”

Finally, Mr. DiCicco argued that the circuit court deprived him of due process, in violation of both the United States Constitution and the Maryland Constitution, by entering judgment without a hearing or trial on the merits. He was entitled, he argued, to be heard

in open court, as he had “raised a meaningful defense,” namely “that the tax calculations are in error.” The irreparable harm that he and his wife would suffer if the circuit court foreclosed their equity of redemption, Mr. DiCicco asserted, required that the court “order a trial on the merits.” Should the court not be inclined to order a trial, he asserted that, “[a]t the very least, it must establish an appropriate amount to be paid for redemption, and provide the defendants an opportunity to redeem.”⁹

The next day, Coachford replied, arguing, simply, that Mr. DiCicco’s motion was “without merit and should be denied.” Several months later, in March 2020, Coachford filed an amended opposition reiterating its position that Mr. DiCicco’s motion was “without merit and should be denied.” However, this time Coachford attached an order from the bankruptcy court denying the DiCicco’s emergency motion to set aside foreclosures, filed two days after the circuit court entered its order foreclosing the DiCicco’s rights of redemption. The bankruptcy court’s order, dated February 24, 2020, noted that Mr. DiCicco’s pending motion for reconsideration with the bankruptcy court did not stay the effectiveness of the order dismissing the case, nor did it stay the effectiveness of any “action by the relevant state court.” Also attached to the amended response was a

⁹ Mr. DiCicco also argued that several “late mailing[s] . . . jeopardized the timeliness of [the] motion.” He noted that he did not receive a copy of the hearing notice until December 30, 2019, which was “too late to properly comply with the [Maryland] Rules as to summons for witnesses or for documents necessary for a proper defense of this matter.” Mr. DiCicco also recalled that he never received a copy of Coachford’s response to Mrs. DiCicco’s motion to postpone and that he did not receive a copy of the court’s order canceling the hearing until January 25, 2020, while the hearing was scheduled for January 15, 2020.

declaration from Shelby Hemphill, a Taxpayer Services Supervisor in the Baltimore County Office of Budget and Finance. Ms. Hemphill declared that, when the Property was sold, the accumulated taxes totaled \$110,609.70.

The circuit court held a hearing on the post-judgment motions on October 6, 2020. Before the court could reach the merits of Mr. DiCicco's motion, Coachford argued that Mr. DiCicco was unable to challenge the judgment foreclosing his right of redemption, as he had not paid the redemption amount into the court registry. The court denied Coachford's request, and found that equity required that it hold a hearing on the motion.

On the merits, Mr. DiCicco's attorney¹⁰ argued that the court erred when it denied his motion for a more definite statement, which sought to establish the basis for Coachford's redemption amount. Throughout the pendency of the litigation, Mr. DiCicco had argued that neither he nor his wife received a statement of the amount necessary to redeem the Property, despite their continuous challenges to the redemption amount calculated by Coachford. He pointed out that neither of the two affidavits of compliance filed by Coachford indicated that a statement of the redemption amount had been provided. Therefore, he requested that the court hold a hearing to fix the redemption amount and/or to set aside the judgment foreclosing the equity of redemption and allow him a period to redeem the Property.

¹⁰ While Mr. DiCicco proceeded through the majority of this litigation *pro se*, he was represented by counsel at the post-judgment motion hearing.

Coachford disagreed that the DiCiccos had not been informed of the redemption amount. It argued that the complaint: (1) explained that to redeem the Property, the DiCiccos, in addition to the purchase price, would have to pay any accrued interest and expenses and (2) specified that \$110, 609.70 was required to redeem the Property. In its view, because the redemption amount was listed in the complaint, Mr. DiCicco's representation that he was unaware of the redemption amount was a "false statement." Any miscommunication as to the amount required to redeem, Coachford averred, derived from the DiCiccos failure to "ask for it." It requested that the court deny the motion, and noted that, in its view, the DiCiccos' request for a 30-day redemption period was "another stall tactic."

The County argued that the Mr. DiCicco could not contest the validity of the tax sale, including the amount necessary to redeem, as he did not file an answer challenging the validity of the tax sale, as required by the Tax-Property Article of the Maryland Code. Mr. DiCicco responded that he had filed an answer on July 1, 2019, in which it was asserted that "[t]he monies allegedly claimed as owed are incorrect." In turn, the County noted that it would be in a better position to comment on the answer if it had been duly served with the filing, which it was not. While continuing to assert that the answer was improperly received, the County opined that: "[T]he obvious inference if the real estate taxes owed fall short of the certificate is that there are Code enforcement penalties, which under the statute are taxes. They're collectible by way of a lien on the Property."

When probed by the court about the amount necessary to redeem the Property, the County asserted that the “taxes paid at sale come out to \$110,609.70.”

After hearing argument, the court denied Mr. DiCicco’s motion. It found, “based on the arguments and filings,” that Coachford had “complied with all requisite filings and notices” therefore, “judgment [] foreclosing the right of redemption is appropriate.” The court also granted the AGC’s and the County’s motions for payment of surplus funds. The following day, on October 7, 2020, the court issued a corresponding order denying, after considering “the papers, exhibits and argument,” Mr. DiCicco’s post-judgment motion. Then on October 8, 2020, the court issued an order granting the County’s motion to distribute surplus funds. On November 4, 2020, Mr. DiCicco noted an appeal challenging the court’s judgment foreclosing his right of redemption.¹¹

DISCUSSION

Appellate courts “review the circuit court’s interpretation of the tax statute *de novo*.” *Kona Props. v. W.D.B. Corp.*, 224 Md. App. 517, 550 (2015); *Maryland-Nat’l Cap. Park & Plan. Comm’n v. Anderson*, 395 Md. 172, 181 (2006) (“Interpretation of a statute is a question of law, and, therefore, we review the decision of the [c]ircuit [c]ourt *de novo*.”).

¹¹ Mr. DiCicco’s original notice of appeal was deficient as it did not have the filer’s email address. Despite this deficiency, the notice was still “filed” on November 4. We have explained that a “paper is said to be ‘filed’ when it is delivered to the proper officer and received by him to be kept on file.” *Lovero v. Da Silva*, 200 Md. App. 433, 442 (2011) (quoting *Cherry v. Seymour Brothers*, 306 Md. 84, 92 (1986)). Therefore, the notice complies with Maryland Rule 8-202(a) as it was “filed” within thirty days of the circuit court’s entry of judgment. On November 9, Mr. DiCicco corrected the deficiency, and his notice of appeal was re-docketed.

To ascertain the meaning of a statute, we apply our customary rules of statutory construction. *Bolling v. Bay Country Consumer Fin., Inc.*, 251 Md. App. 575, 588 (2021). When construing a statute, a court’s “fundamental [] task is to determine and effectuate the legislature’s intent, and indeed the very language of the statute serves as the primary source of the legislature’s intent. To accomplish this task ‘the words of the state are to be given their ordinary and natural import.’” *Kona Props.*, 224 Md. App. at 550-51 (quoting *Scheve v. Shudder, Inc.*, 328 Md. 363, 371-72 (1992)).

I.

The Statutory Scheme

Before we address the parties’ arguments, we review the relevant provisions of the tax sale statute. “[F]or a tax sale to be effective substantial compliance with the statute is required.” *Simms v. Scheve*, 298 Md. 1, 3 (1983) (citing *Free v. Green*, 175 Md. 36, 42 (1938)). Maryland Code (1985, 2012 Repl. Vol., 2014 Supp.), Tax-Property (“TP”) Article §§ 14-801 through 14-870 sets forth the tax sale procedure.¹² Generally, when taxes for a parcel of real property fall into arrears, the jurisdiction’s collector “shall proceed to sell . . . , at the time required by local law but in no case, except in Baltimore City, later than 2 years from the date the tax is in arrears, all property in the county in which the collector is elected or appointed on which the tax is in arrears.” TP § 14-808(a)(1). At least 60 days

¹² We utilize this version of the code as it was the controlling law in 2016 when the Property was sold. Accordingly, all references to the Tax-Property Article in this opinion are from the 1985 Code, 2012 replacement volume, 2014 supplement. For clarity, we note that there have been no material changes to any of the provisions of the Tax-Property Article cited in this opinion since the 2014 supplement was issued.

before tax sale notices are mailed, “the collector shall notify all other taxing agencies in the county in which the collector is elected or appointed, except the State, of the collector’s intention to hold a tax sale of property on which taxes are in arrears and stating the time and place of sale.” TP § 14-810(a). “At least 30 days before any property is first advertised for sale . . . the collector shall have mailed to the person who last appears as owner of the property on the collector’s tax roll, at the last address shown on the tax roll, a statement giving the name of the person, and the amounts of taxes due.” TP § 14-812(a)(1). The collector must also, “[a]t anytime after 30 days from the mailing of the statement and notice” publish “4 times, once a week for 4 successive weeks in 1 or more newspapers . . . a notice that the property will, on the date and at the place named in the notice, be sold at public auction.” TP § 14-813(a)(1). After the sale is properly advertised, the property is sold at a public auction “to the person who makes the highest good faith accepted bid[.]” TP § 14-817(a)(2).

After the property is sold at auction, the purchaser is to receive “a certificate of sale,” which includes, among other things, “a description of the property, the amount for which the property was sold, and information as to the time in which an action to foreclose the owner’s right of redemption must be brought.” *Scheve*, 328 Md. at 370 (quoting *Simms*, 298 Md. at 3); TP § 14-820. Additionally, “not later than the day after the sale,” the purchaser is required to pay the collector “the full amount of taxes due on the property sold,” TP § 14-818(a)(1)(i), while “the rest of the bid remains on credit, to be paid after the

tax sale certificate holder forecloses the title owner’s right of redemption.” *Kona Props.*, 224 Md. App. at 529.

After a tax sale, the title owner of “the property sold by the collector may redeem the property at any time until the right of redemption has been finally foreclosed[.]” TP § 14-827. “To ‘redeem’ means to ‘recover[] property taken for nonpayment of taxes, accomplished by paying the delinquent taxes and any interest, costs, and penalties.” *Thornton Mellon LLC v. Adrienne Dennis Exempt Tr.*, ___ Md. ___, No. 28, September Term 2021, at slip op. 2 (filed Apr. 25, 2022) (quoting *Tax Redemption*, Black’s Law Dictionary (11th ed. 2019)). More specifically, in order to redeem, the title owner must pay the collector:

- (1) the total lien amount paid at the tax sale for the property together with interest;
- (2) any taxes, interest, and penalties paid by any holder of the certificate of sale;
- (3) except for owner-occupied residential property in Baltimore City, any taxes, interest, and penalties accruing after the date of the tax sale;
- (4) in the manner and by the terms required by the collector, any expenses or fees for which the plaintiff or the holder of a certificate of sale is entitled to reimbursement under § 14-843 of this subtitle; and
- (5) for vacant and abandoned property sold under § 14-817 of this subtitle for a sum less than the amount due, the difference between the price paid and the unpaid taxes, interest, penalties, and expenses.

TP § 14-828(a).

Tax-Property Article §§ 14-832.1 through 14-848 govern a purchaser’s ability to foreclose the right of redemption. A purchaser, before initiating proceedings to foreclose a right of redemption, must mail two separate notices informing interested parties of their right to redeem the sold property and a description of the redemption amount. TP § 14-

833(a-1)(1)-(3). After the requisite notices have been filed, a purchaser may file a complaint to foreclose the right of redemption “at any time after 6 months [or 9 months in Baltimore City] from the date of sale.” TP § 14-833(a)(1)-(2). The complaint must be filed, however, within 2 years of the tax sale. TP § 14-833(c)(1). A complaint seeking to foreclose the equitable right of redemption must contain, among other things:

- (1) the fact of the issuance of the certificate of sale;
- (2) a description of the property in substantially the same form as the description appearing on the certificate of tax sale and, if the person chooses, any description of the property that appears in the land records;
- (3) the fact that the property has not been redeemed by any party in interest;
- (4) a request for process to be served on the defendants named in the complaint;
- (5) a request for an order of publication directed to all parties in interest in the property;
- (6) a request that the court pass a judgment that forecloses all rights of redemption of the defendants and any other person having any interest in the property; [and]
- (7) a description of the amount necessary for redemption including the amount paid out at the tax sale[.]

TP § 14-835(a). The purchaser must also attach to the complaint the certificate of sale and an affidavit of title search. TP §§ 14-835(b), 14-838.

After a complaint is filed, the court must issue an order of publication “directed to all defendants.” TP § 14-840. This order must advise interested parties of their obligation to either “answer the complaint or to redeem the property on or before the date named in the order of publication,” and, that a “failure to appear, answer, or redeem the property” will result in a judgment being entered “that forecloses all rights of redemption in the property.” *Id.* Reviewing courts are also generally required to “issue a summons to

procure the answer and appearance of all the defendants as in other civil actions.” TP § 14-839(a)(3).

In response to a petition seeking to foreclose a right of redemption, a title owner can either challenge “the tax sale itself” or “the amount required to redeem” the property. *Dawson v. Prince George’s Cnty.*, 324 Md. 481, 487-88 (1991). Because the “validity of the [tax sale] procedure is conclusively presumed,” owners raising such challenges must, “by answer, set up as a defense the invalidity of the taxes or the invalidity of the proceedings to sell or the invalidity of the sale.” TP § 14-842. Owners agreeing that the tax sale procedure was proper may, nonetheless, “apply to the court before which the action is pending to fix the amount necessary for redemption[.]” TP § 14-829(a). While disputes regarding the amount necessary to redeem are pending, “the collector shall accept no money for redemption unless and until a certified copy of the order of court fixing the amount necessary for redemption is filed with the collector.” TP § 14-829(c).

II.

The Amount Necessary to Redeem the Property

Mr. DiCicco asserts that the circuit court committed reversible error by failing, after multiple requests, to fix the amount necessary to redeem the Property. He argues that when there is “any dispute regarding redemption,” the Maryland code unequivocally forbids a tax collector from accepting “money for redemption unless and until a certified copy of the order of court fixing the amount necessary for redemption is filed with the collector.” (Quoting TP § 14-829(c)). In his view, he asserted that the figure listed in Coachford’s

complaint, \$110,609.70, was inaccurate. Mr. DiCicco asserts that throughout the litigation he “consistently beseeched the court to fix the redemption amount,” including in his post-judgment motion filed on January 27, 2020, when he requested that the court: “Establish an amount to be paid by the defendants to redeem their property and grant them at least 30 days to make such payment.”

Coachford argues that Mr. DiCicco is “precluded from challenging the tax sale because he has not paid the delinquent taxes required to redeem the Property.” It also asserts that Mr. DiCicco did not properly request that the court fix the amount necessary to redeem because he answered the complaint with a general denial. Therefore, in its view, Mr. DiCicco admitted the averments in the complaint, including the amount necessary to redeem. Following this admission, Coachford avers that Mr. DiCicco “did not request the trial court to fix the redemption amount, and the amount necessary for redemption was conclusively established.” Finally, Coachford notes that Mr. DiCicco did not challenge the circuit court’s denial of his post-judgment motion to alter or amend in his brief, which has the effect of waiving “any right to challenge the trial court’s refusal to set the amount necessary for redemption.”

Should this Court conclude that Mr. DiCicco did properly request the court to set the redemption amount, Coachford points us to the “[d]eclaration” by Shelby Hemphill, a Supervisor for Taxpayer Services in Baltimore County, attached to its reply to Mr. DiCicco’s post-judgment motion. In its view, this declaration is sufficient to establish the redemption amount listed in the complaint, as it avers that the “total of the unpaid taxes for

this period . . . was \$110,609.70,” the same amount listed in its complaint. Coachford also argues that before the circuit court, Mr. DiCicco did not offer evidence to dispute the amount proffered by Ms. Hemphill.

Coachford relies on *Canaj, Inc. v. Baker and Davidson Phase III, LLC*, 391 Md. 374 (2006) and *Quillens v. Moore*, 399 Md. 97 (2007) for its contention that Mr. DiCicco was required to pay the delinquent taxes owed on the Property before or simultaneously with his challenge to the court’s entry of judgment foreclosing his redemption rights. In *Canaj, Inc.*, Baltimore City sold several properties at a tax sale after the owner neglected to pay property taxes for over seven years. 391 Md. at 378. After the properties were sold, the purchaser obtained several judgments foreclosing the former owner’s right to redeem the properties. *Id.* at 379-80. More than thirty days after the court entered the last foreclosure judgment, the former owner moved to set the judgments aside, arguing that, for various reasons, the tax sales were void. *Id.* at 380. Although the former owner “acknowledged that it was responsible for the taxes owed, it never, at the hearing or at any other time, directly proffered that it was ready, willing and able to pay the amounts, or to pay undisputed amounts, and, more importantly, it [did] not pay any of the delinquent taxes and charges due.” *Id.* at 386-87.

Before reaching the merits of the tax sale arguments, the Court of Appeals observed that:

By attacking the sale procedure in a post-judgment motion to vacate, instead of paying the taxes and charges which it would have been required to do in order to redeem prior to judgment, the taxpayer appears to be seeking to have

the title of the property revert back to the delinquent taxpayer without having to ever redeem by paying the overdue and due taxes.

Id. at 387-88. The Court noted that this practice was “long ago rejected” and acknowledged that the Court has held 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 right 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.

Id. at 391 (emphasis added). The “reason” for this “general rule . . . that in order to challenge a tax sale, the payment of taxes in arrears is a condition precedent” is that “delinquent taxpayer[s] will never redeem” if they “can find a way to overturn a tax sale without paying the delinquent taxes.”¹³ *Id.* at 385 n.6. After noting that the petitioner had not “contested the fact that taxes are owed [on the properties], or . . . [on] appeal, the amounts” of taxes owed, the Court of Appeals reaffirmed its prior holdings that “in order to challenge the foreclosure of the equity of redemption in a tax sale” the petitioner was required to pay, as a condition precedent, “the taxes and other relevant charges acknowledged to be due, either prior to the challenge or simultaneously with it[.]” *Id.* at 396.

The following year, the Court of Appeals addressed a similar issue in *Quillens v. Moore*, 399 Md. 97 (2007). There, petitioner had, for nearly ten years, failed to pay real

¹³ Allowing reversion of title without redemption, the Court explained, would lead to “[t]he public [being] burdened perpetually with the problems created by abandoned properties, which the delinquent owners would be unlikely to ever pay taxes on or ever to rehabilitate.” *Canaj., Inc.*, 391 Md. at 396.

estate taxes on eight contiguous parcels of property that he owned in Baltimore City. *Id.* at 100, 103. Baltimore City purchased two of the properties at a tax sale and subsequently filed complaints to foreclose petitioner’s right of redemption. *Id.* at 100-01. Petitioner answered, alleging that “the tax sales were invalid because the tax sale certificates issued thereon purported to sell the properties for taxes secured by previously issued void tax certificates.” *Id.* Despite the defenses raised in petitioner’s answer, the circuit court found that the underlying tax sale certificates were valid, and entered an order foreclosing petitioner’s right of redemption. *Id.* at 102.

Before the Court of Appeals, petitioner argued that, unlike the petitioner in *Canaj Inc.*, he was not required to pay the taxes and expenses owned on the parcels as a condition precedent to his challenge. *Id.* at 124. He reasoned that the holding in *Canaj Inc.* applied “only . . . when a party is seeking post-foreclosure relief invoking the court’s general equity jurisdiction,” and that he was “challenging the jurisdiction of the [c]ircuit [c]ourt by asserting that the tax sale certificates issued were invalid.” *Id.* at 125. The Court rebuffed this argument, noting that petitioner, by challenging the jurisdiction of the circuit court, “is seeking post-foreclosure affirmative relief because he is seeking to have the tax sale and order of foreclosing his right of redemption in the City properties set aside.” *Id.* Therefore, under *Canaj Inc.*, the Court held that petitioner must “tender all of the deficient real property taxes before he can challenge the validity of a tax sale.” *Id.*

Canaj, Inc. and *Quillens* do not apply to the present case. Here, Mr. DiCicco is not trying to regain title to the Property without paying the taxes and other charges due. Rather,

he is requesting that the court fix the amount required to redeem the Property and allow him a reasonable period to exercise his redemption rights.

When there is a dispute regarding the amount necessary to redeem a property after an action to foreclose the right of redemption has been commenced, Tax-Property Article, § 14-829(a), allows those seeking to redeem a property to “apply to the court before which the action is pending to fix the amount necessary for redemption[.]” Here, in response to Coachford’s complaint, Mr. DiCicco filed a motion for a more definite statement, in which he argued that the complaint “fails to state any particulars regarding the \$110,609-claimed as unpaid alleged real estate taxes owed on the Property. Therefore, [he] [could not] reasonably frame an answer” as, in his view, “the actual real estate taxes assessed for the subject property are substantially less than Baltimore County certified under oath in the tax sale certificate[.]” He asserted that he was entitled to know “the tax period involved, the property description, the actual real estate tax unpaid for that property and a particularized review of any monies claimed to be owed as taxes together with the basis or reason for the charges.” By making this request, Mr. DiCicco “effectively invoked the right conferred on an owner under § 14-829 to have the court ‘fix the amount necessary for redemption[.]’” *Dawson v. Prince George’s Cnty.*, 324 Md. 481, 488 (1991). Coachford apparently agreed that Mr. DiCicco was invoking this right, as its response to Mr. DiCicco’s motion requested that the court “treat the Motion as a request to set the amount necessary to redeem the subject property.” Mr. DiCicco reiterated this request in his answer, when he asserted that

the “monies allegedly claimed as owed are incorrect[.]”¹⁴ We have recently instructed that “a property owner’s answer may include a request to fix the amount necessary to redeem.” *See Thornton Mellon, LLC v. Adrienne Dennis Exempt Tr.*, 250 Md. App. 302, n.7 (2021), *aff’d*, ___ Md. ___, No. 28, September Term 2021 (filed Apr. 25, 2022) (citing *Dawson v. Prince George’s Cnty.*, 324 Md. 481, 488 (1991)).

After challenging the redemption amount and requesting that the court fix the amount necessary to redeem the property, Mr. DiCicco was not able to redeem the property until the court issued an order setting the redemption amount. Under TP § 14-829: “If there is any dispute regarding redemption, the collector shall accept no money for redemption unless and until a certified copy of the order of court fixing the amount necessary for redemption is filed with the collector.” The use of the term “‘shall’ in a statute indicates the legislative intent that the statute be mandatory.” *Uthus v. Valley Mill Camp, Inc.*, 472 Md. 378, 394 (2021). Thus, “in disputed cases, an owner [cannot] consummate a redemption, by way of payment under protest of the full amount claimed, prior to the court’s determination of the amount to be paid, because the collector may not then take the

¹⁴ Coachford argues that Mr. DiCicco’s answer did not specifically deny the redemption amount listed in its complaint, and, consequently, that the amount has been admitted under Maryland Rule 2-323(d). However, in his answer Mr. DiCicco asserted that the “monies allegedly claimed as owed are incorrect, are invalid and are not legally permitted to be part of the tax sale proceeding.” In light of the dispute between Mr. DiCicco and Coachford, including the then pending motion for more definite statement, we construe this argument as a challenge to the redemption amount listed in Coachford’s complaint. Additionally, Coachford waived this argument by failing to raise it in the circuit court. *See* Md. Rule 8-131(a) (“Ordinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court[.]”).

money.” *Dawson*, 324 Md. at 489. *See also Brooks v. McMillan*, 42 Md. App. 270, 275 (1979) (“[T]ax collector could not accept [property owner’s] payment until she presented a certified copy of the court order fixing the amount necessary to redeem.”). Because Mr. DiCicco invoked his rights under TP § 14-829(a), we hold that the circuit court erred by entering judgment without fixing the amount required to redeem the Property. *See Dawson*, 324 Md. at 489 (“Obviously one cannot have consummated a redemption of the property at the stage when the redemption price is being computed.”). Therefore, we remand to the circuit court to fix the redemption amount and leave the court with remedial flexibility to fashion a reasonable period during which Mr. DiCicco may redeem the Property.

III.

Foreclosing a Right of Redemption Without a Hearing

Mr. DiCicco argues that the court violated his due process rights when it entered judgment without providing him a hearing on the merits of the defenses raised in his answer.¹⁵ We address this argument to provide additional guidance on remand.

In right of redemption foreclosure cases, courts are not permitted to add steps not contemplated by the tax sale statute. In *Scheve v. Shudder, Inc.*, the Court of Appeals examined a court’s ability to foreclose a right of redemption after a purchaser had “taken

¹⁵ In his brief, Mr. DiCicco asserts that the circuit court had “scheduled a trial on the merits” for January 15, 2019. We note that the court had actually scheduled a hearing for January 15, and construe Mr. DiCicco’s argument as asserting that the court denied him due process by foreclosing his right of redemption without a hearing.

all necessary steps to perfect the foreclosure of the right of redemption, but thereafter changed its mind.” 328 Md. 363, 366 (1992). In that case, Theodore and Geraldine Scheve purchased ten parcels at a tax sale, and, more than six months after the sale, filed complaints to foreclose the rights of redemption on the properties. *Id.* After the circuit court confirmed that the complaint adhered to the requirements of the tax statute, it “issued the required process and published a notice of foreclosure.” *Id.* at 366. Both documents provided the date on which “a final judgment would be entered foreclosing [the] rights of redemption.” *Id.* at 366. After the date established in the notice and summons passed, the circuit court signed orders foreclosing the rights of redemption on the properties. *Id.* at 367.

Immediately after the court issued the orders, the Scheves “filed a motion to strike” on the ground that they had not actually “sought a Final Order Foreclosing Rights of Redemption,” and that the court appeared to have taken action “*sua sponte* without communication to the [Scheves] or their attorney.” *Id.* Several months later, the court granted the Scheves’ motion, reviving the defendants’ rights of redemption. *Id.*

Some six months after the motion to strike was granted, the defendants filed a motion for judgment, requesting that the circuit court “foreclose their rights of redemption.” *Id.* at 367. The Scheves responded by noting that they were “not interested in pursuing their Complaint to Foreclose the Equity of Redemption” as they had “apparently decided that they had overbid the property.” *Id.* at 368. The circuit court granted the defendants’ motion, reasoning that the purpose of the tax sale statute

would be defeated if the purchaser at a tax sale were allowed to file a Complaint to Foreclose the Equity of Redemption, comply with all the

statutory notice and publication requirements, allow the time in the Summons and Order of Publication to pass and only then delay the entering of a Final Order by withholding from the Court a copy of a Final Order.

Id. at 369.

The Scheves appealed and, before the Court of Appeals, argued that the tax sale statute does not permit a court to enter judgment foreclosing the right of redemption against “an unwilling plaintiff.” *Id.* at 371. In their view, “the filing of a complaint and complying with the procedural statutes is insufficient and that a tax sale purchaser must take additional steps to affirm its desire to foreclose.” *Id.*

Applying the “principles of statutory construction and the plain language of the statute,” the Court disagreed with the Scheves. *Id.* at 372-73 It reasoned that because the tax sale statute requires that a complaint seeking to foreclose a right of redemption contain “a *request* that the court pass a judgment that forecloses all rights of redemption,” *id.* at 373 (quoting § 14–835(a)(6)) (emphasis in *Scheves*), the complaint is, itself, a “request that the court take action, not just a mere reservation of rights used to toll the statutory time period in which foreclosure must be sought,” *id.* Under the tax sale statute, “[t]here is no mention of an additional prerequisite step of reaffirming the tax sale purchaser’s desire to proceed.” *Id.* at 374. Therefore, the Court concluded that the statute does not require the Scheves’ “suggested ‘second step.’” *Id.* at 373. Rather, “once all the necessary steps have been taken, the purchaser’s filing of a complaint will authorize the court to foreclose the right of redemption.” *Id.* at 374. Adding additional steps not contemplated in the statutory

scheme, would, according to the Court, “contradict both the statutory language and scheme.” *Id.*

The holding in *Scheve* is applicable in the instant case because *Scheve* instructs that we shall not add any step to the right of redemption foreclosure process not contained in the tax sale statute. The plain language of TP § 14-844 does not require that a hearing be held before the entry of a final judgment foreclosing a defendant’s rights of redemption. Thus, we hold that the circuit court did not err because Mr. DiCicco was not entitled to a hearing on the merits of his rights of redemption arguments.

We also disagree with Mr. DiCicco’s contention that his due process rights were violated when the circuit court canceled, and declined to reschedule, the hearing on the defenses raised in his answer. The Fourteenth Amendment to the United States Constitution provides, in part, that a State shall not “deprive any person of life, liberty, or property, without due process of law.” The Due Process Clause of the Fourteenth Amendment guarantees, “at a minimum . . . that deprivation of life, liberty or property by adjudication be preceded by notice and opportunity for a hearing appropriate to the nature of the case.” *Swarey v. Stephenson*, 222 Md. App. 65, 92 (2015) (quoting *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 313 (1950) (emphasis added)). Additionally, Article 24 of the Maryland Declaration of Rights has been construed as extending

protections that are co-extensive with those afforded under the Fourth Amendment of the United States Constitution. *Paula v. Mayor of Balt.*, 253 Md. App. 566, 591-92 (2022).¹⁶

The record in this case reveals that Mr. DiCicco was not deprived of notice or an opportunity to be heard. Mr. DiCicco was given notice of the proceedings and has taken full advantage of the opportunity to participate by filing a motion for a more definite statement, an answer, a post-judgment motion, and an appeal. He is incorrect in his contention that due process entitled him to a hearing on the defenses presented in his answer, as courts in this State have long held that “[w]ith respect to legal issues, due process does not necessarily require that parties be given an opportunity to present argument.” *Blue Cross of Md., Inc. v. Franklin Square Hosp.*, 277 Md. 93, 103-04 (1976). Therefore, while we hold that the circuit court erred by failing to fix the amount necessary to redeem the Property, it did not deprive Mr. DiCicco of due process by declining to hold a hearing on the defenses presented in his answer.

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE COUNTY VACATED;
CASE REMANDED FOR FURTHER
PROCEEDINGS CONSISTENT WITH
THIS OPINION. COSTS TO BE PAID BY
APPELLEE.**

¹⁶ Article 24 states, in relevant part, “[t]hat no man ought to be taken or imprisoned or desseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land.”