

Circuit Court for Baltimore City
Case No.: 24-C-18-001217

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1120

September Term, 2023

VINCENT P. FULLARD

v.

TARK DEVELOPMENT, LLC

Friedman,
Zic,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 8, 2024

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis, nor may it be cited as persuasive authority.

In 2017, Tark Development, LLC, appellee, purchased, at a tax sale, property owned by Vincent P. Fullard, appellant. In March 2018, Tark filed, in the Circuit Court for Baltimore City, a complaint to foreclose rights of redemption in the property. A year later, the court entered a judgment in Tark’s favor foreclosing redemption rights in the property.

More than three years later, in June 2022, Fullard filed a motion to vacate the court’s judgment. The court directed the City to file a verified response within 30 days stating with particularity the liens that formed the basis of the 2017 tax sale. The City filed a response more than 60 days later identifying 3 delinquent liens: a metered water bill; a registration bill; and real property taxes for 2016/17. Despite Fullard’s argument that his water bill had been abated, the court denied his motion because the remaining unpaid taxes, interest, penalties, and expenses due were sufficient to justify the tax sale. Fullard then attempted to pay Tark the balance of those outstanding liens, but Tark refused his payment. This appeal followed.

Fullard first argues that the circuit court erred in considering the City’s untimely response to its order as support for denying his motion. But whether to consider an untimely response to an order falls within the circuit court’s wide discretion. *See Candolfi v. Allterra Group, LLC*, 254 Md. App. 221, 238 (2022). Fullard fails to identify anything in the record that shows the court’s consideration of a response containing information it requested—albeit an untimely one—amounts to an abuse of that discretion. *See Letke Sec. Contractors, Inc. v. United States Sur. Co.*, 191 Md. App. 462, 474 (2010) (“An abuse of discretion exists when no reasonable person would take the view adopted by the trial court, or when the court acts without reference to any guiding rules or principles.” (cleaned up)).

Fullard next argues that he attempted to pay Tark the balance of the outstanding liens after the court issued its order denying his motion, but Tark refused his payment. He does not seem to allege that the court committed any error on this issue. But in any event, in the context of a motion to vacate the judgment foreclosing the right of redemption on the grounds of fraud, mistake or irregularity, “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.” *Canaj, Inc. v. Baker & Div. Phase III, LLC*, 391 Md. 374, 396 (2006) (emphasis added). Fullard did not attempt to pay the relevant charges until *after* the court denied his motion—not prior to or simultaneously with it. His failure to satisfy that condition precedent, alone, was reason enough to deny his motion. *See id.*

Fullard’s final argument, as best we can tell, concerns allegations of “a bogus water bill” that caused the tax sale. But as the circuit court observed in its order denying Fullard’s motion to vacate, the remaining unpaid liens identified by the City were independently sufficient for the Director of Finance to sell the property at a tax sale. *See Md. Code Ann., Tax-Property §§ 14-808 & 14-811.* Accordingly, the court did not err or abuse its discretion by denying Fullard’s motion.

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