

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1209

September Term, 2015

MOHABATOLLAH ROUHANI, ET. AL.

v.

LAKESIDE REO VENTURES, LLC
SUCCESSOR IN INTEREST TO WOODS
COVE II, LLC

Eyler, Deborah, S.
Woodward,
Battaglia, Lynne A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Battaglia, J.

Filed: October 5, 2016

*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.

In this case, we must determine whether the Circuit Court for Montgomery County abused its discretion in ordering alternative service of notice to property owners whose right to redeem after a tax sale of property had been foreclosed, as well as whether the notice ordered violated the owners’ constitutional due process rights. We conclude that the circuit court did not abuse its discretion in ordering alternative service and that the notice did not violate the property owners’ due process rights.

Three questions on appeal are presented:

- I. Did the method of alternative service authorized by the trial court provide Appellants with actual, meaningful notice of the tax sale action in compliance with the Appellants’ right to due process under the 14th Amendment of the United States Constitution?
- II. Did Appellee comply with its affirmative duty to seek a valid address for Appellants in accordance with the notice requirements of MD Code, Tax – Property, § 14-833, et. seq.?
- III. Did the trial court err in holding sufficient grounds existed to permit alternative service that would confer the trial court’s personal jurisdiction over the Appellants, thus warranting entry of the order foreclosing the right of redemption?

Lakeside REO Ventures, LLC¹, Appellee, successor in interest to Woods Cove II, LLC as of May 2015, was the holder of a Certificate of Tax Sale for a property located at 509 Whitcliff Court in Gaithersburg, Maryland (“The Property”), which had been purchased by Mohabatollah and Nahid A. Rouhani, Appellants (collectively referred to as “the Rouhanis”), on August 21, 1992. In 2011, the Rouhanis had stopped paying property taxes on The Property, and pursuant to Section 14-817 of the Tax-Property Article of the

¹ Woods Cove II, LLC originally purchased The Property at the tax sale and was the initial holder of the Tax Certificate. On May 13, 2015, Woods Cove assigned the Certificate of Tax Sale to Lakeside REO Ventures, LLC.

Maryland Code (1985, 2012 Repl. Vol.)² the Director of Finance and Collector of Taxes for Montgomery County held a public auction at which Woods Cove II, LLC purchased the Certificate of Tax Sale by paying some of the outstanding property taxes amounting to \$4,154.12. The Rouhanis, as owners of The Property, however, retained the right to redeem The Property under Section 14-827 of the Tax-Property Article of the Maryland Code (1985, 2012 Repl. Vol.)³; as the Certificate stated, “The property described in this certificate is subject to redemption,” by the owners of The Property, who were identified as the Rouhanis.

In June of 2014, Woods Cove II, LLC filed a complaint in the Circuit Court for Montgomery County to foreclose the Rouhanis’ right of redemption. The Complaint listed two addresses for the Rouhanis, one of which was The Property address and the other was the address for Realty Group Property Management at 6 Montgomery Village

² Section 14-817(a)(1)(i) of the Tax-Property Article of the Maryland Code (1985, 2012 Repl. Vol.) governs the tax sale procedure at public auction and provides, in relevant part:

- (a) *Conduct of sale.* — (1)(i) The sale shall be held on the day and at the place stated in the notice by advertising.
 - (ii) The sale shall be held in the county in which the land to be sold is located.
 - (iii) If the sale cannot be completed on that day, the collector shall continue the sale as determined by the collector and announced to the bidders at the sale until all property included in the sale is sold.
- (2) All sales shall be at public auction to the person who makes the highest good faith accepted bid, in fee or leasehold, as the case may be.”

³ Section 14-827 of the Tax-Property Article of the Maryland Code (1985, 2012 Repl. Vol.) states the right to redeem property and provides:
The owner or other person that has an estate or interest in the property sold by the collector may redeem the property at any time until the right of redemption has been finally foreclosed under the provisions of this subtitle.

Ave., #248, Gaithersburg, MD 20879, which had been identified as a second address for the Rouhanis in the county tax records for an indeterminate time.⁴ When referring to its efforts to serve the Rouhanis in the Complaint, Woods Cove II, LLC alleged:

That said notices were sent by first-class certified mail, postage prepaid, return receipt requested and bearing a postmark from the United States Postal Service in an envelope prominently marked on the outside with the phrase “Notice of Delinquent Property Tax”. Notices were sent [to] the person who last appears as the owner on collector’s tax roll, and the current mortgagee of the property, its assignee and servicer of record, if any, or the current holder of a beneficial interest in a Deed of Trust recorded against the property.

Woods Cove II, LLC’s attorney, Shannon Menapace of Lien Servicing, LLC, attached an affidavit describing her effort to serve the Rouhanis, in order to comply with Section 14-833(a-1) of the Tax-Property Article of the Maryland Code (1985, 2012 Repl. Vol.)⁵:

⁴ The Rouhanis apparently had hired Realty Group Property Management to manage The Property for a period of time not established in the record.

⁵ Section 14-833 of the Tax-Property Article of the Maryland Code (1985, 2012 Repl. Vol.) governs the procedure to foreclose the right of redemption, and under Section 14-833(a-1):

- (a-1) *Notice required; timing; contents; requirements; affidavit of compliance.* —
- (1) The holder of a certificate of sale may not file a complaint to foreclose the right of redemption until at least 2 months after sending the first notice and at least 30 days after sending the second notice required under this subsection to:
 - (i) the person who last appears as owner of the property on the collector’s tax roll; and
 - (ii) 1. the current mortgagee of the property, assignee of a mortgagee of record, or servicer of the current mortgage; or
2. the current holder of a beneficial interest in a deed of trust recorded against the property.
 - (2) The holder of a certificate of sale is not required to provide the notices under this subsection if subsection (e), (f), or (g) of this section applies to the property.
 - (3) The notices required under this subsection shall include at least the following:
 - (i) a statement of the fact of the issuance of a certificate of sale;

(continued . . .)

Pursuant to Maryland Tax-Property § 14-833(a-1), I hereby certify that on October 16, 2012 and November 21, 2012, the notices required by this section were sent first class mail via United States Postal Service certified mail, postage prepaid, return receipt requested to the following:

(. . . continued)

(ii) a copy of the certificate of sale, if the holder of the certificate of sale received the certificate of sale before the notice was sent under this paragraph;

(iii) a statement that the owner, a mortgage holder, or any other person that has an estate or interest in the property may redeem the property at any time until the right of redemption has been finally foreclosed under the provisions of this subtitle;

(iv) a statement that the holder of the certificate of sale may file an action to foreclose the right of redemption at any time after 2 months from the date of the first notice;

(v) a statement that if the property is redeemed before an action to foreclose the right of redemption is filed, the amount that shall be paid to redeem the property is:

1. the total lien amount on the property at the time of sale, with interest;
2. any taxes, interest, and penalties paid by the holder of the certificate of sale;
3. any taxes, interest, and penalties accruing after the date of the tax sale; and
4. the following expenses incurred by the holder of the certificate of sale:
 - A. costs for recording the certificate of sale;
 - B. a title search fee, not to exceed \$250;
 - C. the postage and certified mailing costs actually incurred for the notices; and
 - D. reasonable attorney's fees, not to exceed \$500;

(vi) a statement that if the property is redeemed after an action to foreclose the right of redemption has been filed, the amount that shall be paid to redeem the property is the sum of:

1. the total lien amount on the property at the time of sale, with interest;
2. any taxes, interest, and penalties paid by the holder of the certificate of sale;
3. any taxes, interest, and penalties accruing after the date of the tax sale; and
4. attorney's fees and expenses to which the holder of the certificate of sale may be entitled under § 14-843(a)(4) and (5) of this subtitle.

1. Mohabatollah Rouhani, 509 Whitcliff Ct, Gaithersburg, MD 20878
2. Nahid A. Rouhani, 509 Whitcliff Ct, Gaithersburg, MD 20878
3. Mohabatollah Rouhani, Realty Group Prop Mgmt, 6 Montgomery Village Ave., #248, Gaithersburg, MD 20879
4. Nahid A. Rouhani, Realty Group Prop Mgmt, 6 Montgomery Village Ave., #248, Gaithersburg, MD 20879

I further certify that not less than 7 days after the first notice was sent, and not more than 30 days prior to the filing of this lawsuit, the second statutorily required notice was sent via United States Postal Service certified mail, postage prepaid, return receipt requested to the following:

1. Mohabatollah Rouhani, 509 Whitcliff Ct, Gaithersburg, MD 20878
2. Nahid A. Rouhani, 509 Whitcliff Ct, Gaithersburg, MD 20878
3. Mohabatollah Rouhani, Realty Group Prop Mgmt, 6 Montgomery Village Ave., #248, Gaithersburg, MD 20879
4. Nahid A. Rouhani, Realty Group Prop Mgmt, 6 Montgomery Village Ave., #248, Gaithersburg, MD 20879

Pursuant to Maryland Tax-Property §14-833(a-1)(8), evidence that the second of the two notices required was sent by first-class mail, via United States Postal Service, certified mail, postage prepaid, return receipt requested, is attached hereto as Exhibit 1.

I hereby verify that the amount that shall be paid to redeem the property complies with the requirements of Code Tax-Property §14-833(a-1)(3).

Woods Cove II, LLC also stated in the Complaint that it conducted a title examination of The Property, pursuant to Maryland Rule 14-502(c)(2) (2014),⁶ and attached an Affidavit of Title Search for The Property and a copy of the title report. In the Affidavit of Title Search, signed by Harry A. Rosen of Area Abstract Corporation, he stated that a title

⁶ Maryland Rule 14-502(c)(2) (2014) states that:
(c) **Documents.** The complaint shall be accompanied by:

* * *

(2) a copy of a title report supported by an affidavit by the person making the search that a complete search of the records has been performed in accordance with generally accepted standards of title examination for the period of at least 40 years immediately before the filing of the complaint.

search had been conducted on April 23, 2014 “in accordance with generally accepted standards of title examination” by having “included a complete search of the Land Records of Montgomery County, The Circuit Court for Montgomery County and the Register of Wills for Montgomery County.” Woods Cove II, LLC requested a summons be issued to the Rouhanis at The Property address and at the Realty Group Property Management address; that the court enter an Order of Publication giving notice of the right to redeem; and the court enter Final Judgment to foreclose the right to redeem The Property.

In June of 2014 the court issued an order for publication that directed that a notice be inserted in a newspaper of general circulation in Montgomery County by August 18, 2014, the date by which interested persons had to appear to redeem The Property. The court also issued Writs of Summons to each of the Rouhanis “to file a written answer or petition to redeem in this court to the attached complaint,” which were to be sent to the Rouhanis at The Property address as well as to the Realty Group Property Management address.

In November of 2014 Woods Cove II, LLC requested a reissuance of summons and sent a second summons to the Rouhanis at The Property address, but the docket reflects that the process server was unable to effect personal service on the Rouhanis. A third summons was then issued to the Rouhanis at The Property address.

Woods Cove II, LLC, thereafter, filed a Motion for Alternative Service followed by a Renewed Motion for Alternative Service⁷ in March of 2015 in which it alleged that it had made good faith efforts to locate and serve the Rouhanis at their last known address, but had been unable to do so:

9. . . . Plaintiff again reviewed the Maryland State Department of Assessments and Taxation (“SDAT”) website and performed a Real Property search. The search revealed that Defendants, while still listed as the owners of the Property changed the mailing address for the Property from the previous “c/o Realty Grp Prop Mgmt, 6 Montgomery Vill Ave #248 Gaithersburg MD 20879” to the now current “PO Box 370 TAIF SAUDI ARABIA FC”. Exhibit B.

10. Additionally, while the use of the Property is listed as Residential, the SDAT search results indicated that this was not the owner’s principal residence. *Id.*

11. A review of the Montgomery County Property Tax website and records was then conducted. A search of the Property address revealed that, again, while Defendants were listed as the owners, the current address provided to the County Department of Finance, for tax billing purposes, was “PO Box 370 TAIF SAUDI ARABIA, FC.” Exhibit C.

12. Plaintiff then conducted a search of Public Records using LexisNexis, in an attempt to locate any alternative addresses for Defendants, or to otherwise determine if perhaps they were deceased. This search did not reveal any other relevant addresses upon which service might be attempted.

13. Plaintiff also performed an Estate Search using the Office of the Register of Wills website, though no results were found for anyone with the last name “Rouhani”. Exhibit D.

14. In addition to the personal service attempts, Plaintiff sent the notices required by Tax-Property, §14-833(a-1) to all addresses known for Defendants at that time. Exhibit E.

15. Further, Plaintiff has published an Order of Publication in the Montgomery County Sentinel in accordance with Maryland Tax-Property §14-840 and Maryland Rules 14-503(b) and 2-122. *See* docket entry 10.

16. Pursuant to Maryland Tax-Property §14-836(b)(6), on July 30, 2014 the Property was posted with an Order of Posting and a copy of the Complaint. *See* docket entry 11.

Woods Cove II, LLC then requested:

⁷ The renewed motion was filed because exhibits had not been attached to the original motion.

WHEREFORE, the Plaintiff respectively requests that the Court issue an Order allowing for alternative service on the Defendants, Mohabatollah Rouhani and Nahid A. Rouhani by allowing service alternatively on the Defendants by

- (1) Having already posted to the Defendant's last known address 509 Whitcliff Court, Gaithersburg, MD 20878 with a copy of the Summons, Complaint, Exhibits, Order of Publication, and Notice to Defendants; and further
- (2) Having already caused notice to be published; and further
- (3) Plaintiffs now mailing by first class mail to each of Defendants' last known addresses 509 Whitcliff Court, Gaithersburg, MD 20878 and P.O. Box 370 TAIF, Saudi Arabia, FC, a copy of the Summons, Complaint, Exhibits, Order of Publication, and Notice to Defendants; and
- (4) Any other means of service that the Court deems appropriate.

Woods Cove II, LLC also attached an Affidavit of Due Diligence Exercised in Trying to Locate and Serve Defendants signed by its attorney, Eric Manas, in which he detailed his efforts to serve the Rouhanis:

2. Specifically, I have contacted the private process servicing company, De Novo Attorney Services, Inc., and confirmed that service was attempted on December 8, 2014 and that the result was a finding of "vacant" after having spoken with a neighbor at 50 Whitcliff to confirm.
3. I caused to be performed a search of public records on February 12, 2015 and reviewed the results indicating no other alternate addresses for either defendant as well as no evidence that either defendant was deceased.
4. I performed an estate search for either defendant to determine if either defendant was deceased and had then had opened an estate in Montgomery County. There was no evidence of death of either defendant.
5. I reviewed the entire record in this case, including copies of all affidavits, notices and proof of posting and mailing. Additionally, I reviewed all docket entries and references to documents by the Court. In doing so I determined that all the notices referenced in the Motion for Alternative Service were provided as detailed in said motion.
6. That further my personal review confirmed that notices pursuant to 14-833(a-1), 14-840, 14-503(c)(3), and 14-836(b)(6) were all mailed, posted and published in accordance with relevant law and as described in the Motion for Alternative Service.
7. Based upon my due diligence I know of no other addresses for which any service or notice could be provided for Defendants, other than the recently discovered P.O. Box 370 TAIF, Saudi Arabia, FC address provided by Defendants to SDAT and the Montgomery County tax authority.

On April 6, 2015, Judge Ronald B. Rubin of the Circuit Court for Montgomery County granted Woods Cove II, LLC’s Motion for Alternative Service and entered an order providing:

[T]hat service of process shall be made on Mohabatollah Rouhani and Nahid A. Rouhani, in this action by alternative service as follows:

1. The posting of the Property that occurred on July 30, 2014, and
2. The publication of notice as certified by the Printer’s Certificate filed on July 11, 2014, and
3. The mailing of the Notice to Defendants Pursuant to Maryland Rule 14-503(c)(3)^[8] to both Defendants’ last known addresses, and
4. The posting of the Notice to Defendants Pursuant to Maryland Rule 14-503(c)(3) at the Courthouse door or on a bulletin within its immediate vicinity.

The Order provided for a response to the complaint to be filed by June 22, 2015. Pursuant to Judge Rubin’s order, notices were mailed to each of the Rouhanis at P.O. Box 370 TAIF, Saudi Arabia, FC, as well as were posted and published.

At the close of the 30 day period, Lakeside REO Ventures, LLC filed a Request for Entry of Judgment Foreclosing Right of Redemption, pursuant to Section 14-844(a)

⁸ Maryland Rule 14-503(c)(3) (2006) governs process in a tax sale and provides, in relevant part:

(c) Posting of Property. Upon the filing of the complaint, the plaintiff shall cause a notice containing the information required by Rule 14-502(b)(3), to be posted in a conspicuous place on the property. The posting may be made either by the sheriff or by a competent private person, appointed by the plaintiff, who is 18 years of age or older, including an attorney of record, but not a party to the action. A private person who posts the notice shall file with the court an affidavit setting forth the name and address of the affiant, the caption of the case, the date and time of the posting, and a description of the location of the posting and shall attach a photograph of the location showing the posted notice.

of the Tax-Property Article of the Maryland Code (1985, 2012 Repl. Vol.),⁹ in which it stated:

1. That subsequently herewith Plaintiff filed its Affidavit of Compliance providing evidence that all applicable provisions of the Maryland Rules and Maryland Tax-Property Code were complied with.
2. That pursuant to Maryland Tax-Property §14-833(a), “[a]fter the time limit set in the order of publication and in the summons expires, the court shall enter judgment foreclosing the right of redemption.”
3. That the time limit in the Order of Publication has since expired.
4. That the time limit in the summons has since expired.

Attached was an Affidavit of Compliance to the Request for Entry of Judgment, signed by counsel for Lakeside, Shannon Menapace, in which she stated:

11. The Plaintiff has complied with all notice and service of process requirements as set forth in §14-836(b)(6), §14-837, §14-838, §14-839, and §14-840 of the Maryland Code and Rules 2-121 & 2-122 of the MD Rules of Civil Procedure; each of the Defendants were served with the original Summons, and a copy of the Complaint with all Exhibits, Order of Publication, and Notice to Interested Parties. See Exhibit A.

12. Notice by publication has been duly promulgated pursuant to the terms of this Court's Order of Publication pursuant to §14-840 of the Maryland Tax Property Article, in that all defendants and all parties having or claiming to have an interest in the property were duly notified by this Court's Order of Publication published in *The Sentinel*, a newspaper of general circulation in Montgomery County, Maryland, once a week for three (3) successive weeks, in accordance with the Court's Order of Publication. See docket entry 10.

⁹ Section 14-844(a) of the Tax-Property Article of the Maryland Code (1985, 2012 Repl. Vol.) governing the judgment foreclosing the right of redemption provides:

(a) *Judgment*. — After the time limit set in the order of publication and in the summons expires, the court shall enter judgment foreclosing the right of redemption. An interlocutory order is not necessary. The judgment is final and conclusive on the defendants, their heirs, devisees, and personal representatives and they or any of their heirs, devisees, executors, administrators, assigns, or successors in right, title, or interest, and all defendants are bound by the judgment as if they had been named in the proceedings and personally served with process.

13. That all defendants were mailed, by first class mail, postage prepaid, or served a copy of the Order of Publication as required by §14-839(a)(4) of the Maryland Tax Property Article.

14. That the time in which the property could be redeemed expired and the undersigned affiant has not received notice from any parties of an intention to redeem although all of them have been notified by certified and restricted mail, and by the Order of Publication.

15. That the Real Property has not been redeemed.

16. The matter is ripe for Final Judgment pursuant to the provisions of Maryland Code, Tax Property Article §14-844 in that there has been no response filed within the later to occur of a) the response time set forth in the Summons served upon the respective Defendants, b) the actual time specified in the Order of Publication entered herein, and c) thirty-three days after the mailing of the copy of the Order of Publication entered herein. Maryland Code, Tax Property Article §14-844.

Judge Terrence J. McGann, thereafter, entered Judgment Foreclosing Right of Redemption of The Property on June 30, 2015. The Rouhanis, then, on July 29, 2015 filed a Motion to Revise and Vacate the Judgment Foreclosing Right of Redemption, in which they argued that Lakeside did not make a good faith effort to personally serve them because the Rouhanis received their first and only notice on June 1, 2015. The Rouhanis later attached affidavits in which they averred that they received notice of the foreclosure proceeding around June 1, 2015¹⁰ in Saudi Arabia and that they had sought to redeem the property before the entry of judgment on June 30, 2015 by requesting,

¹⁰ In the Rouhanis' affidavits attached to their Motion to Revise and Vacate the Judgment Foreclosing the Right of Redemption, Mr. Rouhani averred:

12. Nahid A. Rouhani and I received Plaintiff's Notice and Order of Posting, which was delivered to our current mailing address in Saudi Arabia, no earlier than June 1, 2015.

13. Prior to June 1, 2015, I had not received a notice, order, pleading or any other document from Plaintiff, or Plaintiff's predecessor in interest, concerning a pending tax sale or a complaint to foreclose the right of redemption.

Mrs. Rouhani's affidavit was substantially the same.

through their real estate agent, a payoff statement from Lakeside, which provided the payoff statement on July 1, 2015. The Rouhanis also alleged they sent to Lakeside \$2,476.69, representing what Lakeside had incurred in attorney’s fees and costs as “an attempt to pay-off Plaintiff’s attorney’s fees and costs.”

At the hearing on the Rouhanis’ Motion to Revise and Vacate the Judgment, Judge Joseph M. Quirk denied the motion, having found “that there was compliance with due process [, and] that the Order for substitute service which was entered by Judge Rubin was appropriate.” The court also found that the Rouhanis did actually receive notice in Saudi Arabia even though they “had left no change of address or method of contact” because “ultimately there was a direct mailing to Saudi Arabia, which was, in fact, actually received by the defendants.” Judge Quirk specifically highlighted that the Rouhanis, when they attempted to redeem The Property on June 30, did not pay the entire amount due for the outstanding taxes: “I would also point out that in order to effectuate a right of redemption the defendants would need to pay the entire amount due prior to the entry of the judgment foreclosing that right,” and “there was not a tender of the full payment of the outstanding taxes which hadn’t been paid for four years in this case.”

On July 29, 2015, the Rouhanis also filed a Notice of Appeal.

DISCUSSION

In *St. George Antiochian Orthodox Christian Church v. Aggarwal*, 326 Md. 90, 91-92 (1992), Judge John F. McAuliffe of the Court of Appeals summarized the Maryland tax sale procedure:

When taxes on real property are not paid, the collector of taxes must sell the property at public auction. Before doing so, the collector must mail a final bill and notice of proposed sale to the owner at the address shown on the tax rolls and advertise the sale in a newspaper having general circulation in the county in which the property is located. Even after the sale the owner has a right to redeem the property by paying accrued taxes, interest, costs, and fees. That right to redeem may be foreclosed by order of a circuit court in the county in which the land is located. The effect of foreclosing the right of redemption is significant – the property owner is divested of all right, title, and interest in the property.

In the present case, what the tax collector did is not in issue. Rather, whether Judge Rubin abused his discretion when he ordered alternative service on the Rouhanis is the query as well as whether the Rouhanis’ due process rights under the Fourteenth Amendment of the United States Constitution were violated.¹¹

Before we address the Rouhanis’ contentions, however, we must first address whether they were required to pay all of the outstanding property taxes before they would be able to challenge the foreclosure of the equity of redemption of The Property.

Certainly, Section 14-828 of the Tax-Property Article of the Maryland Code (1985, Repl. Vol. 2012) so mandates:

- (a) *Payments to collector.* — If the property is redeemed, the person redeeming shall 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) any taxes, interest, and penalties accruing after the date of the tax sale;

¹¹ The Due Process Clause of the Fourteenth Amendment of the United States Constitution states, “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law.” U.S. Const. Amend. XIV.

- (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.

The statutory mandate has been highlighted by the Court of Appeals in *Quillens v.*

Moore, 399 Md. 97, 125 (2007), in which it opined that, “[A] property owner must tender all of the deficient real property taxes before he can challenge the validity of a tax sale.”

The rationale of the requirement is obviously to force the “delinquent taxpayer” to settle up, as the Court of Appeals stated in *Canaj, Inc. v. Baker and Division Phase III*, 391 Md. 374, 385 (2006), another post-judgment motion to vacate case:

What occurred here may be an unusual attempt to avoid altogether the responsibility of owners to pay property taxes and an attempt to avoid compliance with the requirements imposed upon taxpayers relating to the right to redeem in tax sale cases. In order to redeem, the delinquent taxpayer has to tender all of the taxes, interest and costs of sale to the Collector or to the holder of the certificate. Md. Code (1985, 2001 Repl. Vol.), § 14–828 of the Tax–Property Article.

In the present case, there is no question that the Rouhanis did not tender payment of the deficient real property taxes, so they would not have been eligible to redeem The Property.

Even if the Rouhanis were to have had tendered all of the deficient taxes, however, they still would not have prevailed in the present case, because they had not filed a timely response to the Complaint to foreclose. The Rouhanis contend before us, however, that the alternative service effected was not appropriate because the order governing alternative service was entered only 69 days before the right to redeem The Property was

foreclosed. Because they were in Saudi Arabia, they argue, the abbreviated time schedule for a response violated their constitutional due process rights.

The statute governing notice to the property owner by a tax sale certificate holder, Sections 14-839(a)(1)-(4) of the Tax-Property Article of the Maryland Code (1985, 2012 Repl. Vol.), provides:

- (a) *Notice to defendants.* — (1) The plaintiff shall show in the title of the complaint the last address known to the plaintiff or to the attorney filing the complaint of each defendant, as obtained from:
- (i) any records examined as part of the title examination;
 - (ii) the tax rolls of the collector who made the sale, as to the property described in the complaint; and
 - (iii) any other address that is known to the plaintiff or the attorney filing the complaint.
- (2) Paragraph (1) of this subsection does not require the plaintiff or the attorney for the plaintiff to make any investigations or to search any other records or sources of information other than those stated.
- (3) On the filing of the complaint, the court shall issue a summons to procure the answer and appearance of all the defendants as in other civil actions.
- (4) This paragraph does not apply if a last known address for a defendant is not obtained as provided under paragraphs (1) and (2) of this subsection. The plaintiff shall cause a copy of the order of publication to be mailed by first-class mail or certified mail, postage prepaid, to each defendant at the defendant's address as determined by the provisions of paragraphs (1) and (2) of this subsection. As to any defendant not served by summons or as provided by paragraph (5) of this subsection, the plaintiff shall file an affidavit in the proceedings, which affidavit:
- (i) shall certify that this provision has been complied with; and
 - (ii) shall be accompanied by:
 - 1. the receipt obtained from the post office for the mailing; or
 - 2. the certified mail receipt.

If under Sections 14-839(a)(1)-(4) notice is not achieved, Section 14-839(a)(5) provides that, “Notice to a defendant may be made in any other manner that results in actual notice of the pendency of the action to the defendant. When notice is made under this paragraph it shall be certified to by an affidavit that fairly describes the method and time of

service.” The statutory scheme also contains an acknowledgment of its own sufficiency of process in Section 14-839(b)(2):

(b) *Notice to defendants — Declared reasonable and sufficient.* — The provisions of this section as to notice to persons who may have an interest in property sold for nonpayment of taxes, coupled with the order of publication and the other publicity and notices as ordinarily accompanies the sale of such property, as well as the knowledge of the taxes and the consequences for nonpayment of the taxes is declared:

- (1) to be reasonable and sufficient under all of the circumstances involved, and necessary in light of the compelling need for the prompt collection of taxes; and
- (2) to supersede any other requirement in other cases or civil causes generally.

The Court of Appeals has had the opportunity to evaluate the constitutionality, under the Fourteenth Amendment of the United States Constitution, of the tax sale statute and its procedures in *Canaj*, 391 Md. at 425-26. The Court of Appeals determined unequivocally that “the tax sale statute and procedures stand on solid constitutional ground.” *Id.*

If Judge Rubin, then, were to have followed the statutory rubric, his order for alternative service would pass constitutional muster. In the present case, the mandates of Sections 14-839(a)(1)-(5), (b)(2) were satisfied. It was reasonable and sufficient under the statute for notice to be sent to the Saudi Arabia post office box that the Rouhanis had provided as their address, among the other methods for service provided. It is important to note that they actually received notice, albeit on June 1, 2015, when they accessed the post office box. The Rouhanis were given the opportunity to redeem The Property prior to foreclosure, and even after foreclosure, they were given the opportunity to participate

in the proceeding. The Rouhanis’ constitutional due process rights were protected. *Canaj*, 391 Md. at 425-26.

The Rouhanis, however, refer us to *Jones v. Flowers*, 547 U.S. 220 (2006), to assert that unique circumstances of a property owner must be taken into consideration for constitutional due process, such as their presence in Saudi Arabia. In *Jones*, Jones’s home was sold pursuant to a tax sale after years of unpaid taxes on the home, and the Supreme Court found that Jones had received notice of the tax sale only after the time to redeem the property had elapsed. Jones had argued that his property was taken without due process, and the Supreme Court agreed because a notice regarding the proceeding sent to Jones’s home was returned to the post office as “unclaimed” prior to the tax sale.

Jones, however, is inapposite in the present case because the Rouhanis received actual notice prior to the expiration of the time for them to redeem The Property. The steps taken to apprise the Rouhanis of the action and their right to redeem The Property were not only reasonable under the circumstances, but were also successful.

The Rouhanis also refer us to *Miserandino v. Resort Properties, Inc.*, 345 Md. 43 (1997), for the proposition that the efforts to serve process upon them in this case were insufficient. In *Miserandino*, a money judgment was entered in Virginia against the Miserandinos, who were Maryland residents; Resort Properties later sought to enforce the judgment in Maryland.

Resort Properties had sent notice of the original pleading by first-class mail to the Miserandinos, who alleged that their constitutional due process rights were violated because they were not residents of Virginia. Our Court of Appeals concluded that the

Miserandinos’ constitutional due process rights were violated by the first-class mail service.

Miserandino, however, is inapposite to the present case. The Property is in Maryland and the statutory tax sale provisions for service of process were followed throughout the proceedings. The Rouhanis were served with process in a sufficient time to challenge the foreclosure before and after the judgment was ordered. The Rouhanis’ due process rights were not violated.

Whether Judge Rubin abused his discretion by ordering alternative service is the final question.¹² The Rouhanis argue that Judge Rubin abused his discretion by ordering that alternative service be sent to the Rouhanis’ Saudi Arabia address. The Rouhanis also argue that the 90 day period for filing an answer to a complaint under Maryland Rule 2-321(b)(5) (2004)¹³ illustrates that greater than 69 days should have been afforded to them to be served.

When considering what constitutes an abuse of discretion, the Court of Appeals in *Wilson v. John Crane, Inc.*, 385 Md. 185, 198-99 (2005), has stated:

There is an abuse of discretion ‘where no reasonable person would take the view adopted by the [trial] court[]’ . . . or when the court acts ‘without reference to any

¹² We need not linger over the second question presented in which the efforts of Woods Cove II, LLC and Lakeside to search for a valid address is in question. The circuit court did not find the efforts of Woods Cove II, LLC or Lakeside wanting, and neither do we.

¹³ Maryland Rule 2-321(b)(5) (2004) governs the time for filing an answer to a complaint, counterclaim, cross-claim, or third-party claim, and provides, “[a] defendant who is served with an original pleading outside of the United States shall file an answer within 90 days after being served.”

guiding rules or principles.’ An abuse of discretion may also be found where the ruling under consideration is ‘clearly against the logic and effect of facts and inferences before the court[]’ . . . or when the ruling is ‘violative of fact and logic.’

‘Questions within the discretion of the trial court are ‘much better decided by the trial judges than by appellate courts, and the decisions of such judges should only be disturbed where it is apparent that some serious error or abuse of discretion or autocratic action has occurred.’ In sum, to be reversed ‘[t]he decision under consideration has to be well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.’

In ordering the alternative service of process, which provided for service by publication, by posting, and by mail to the Rouhanis’ Saudi Arabia address and at The Property, Judge Rubin acted within the statutory mandates of Section 14-839 of the Tax-Property Article and relied upon the averments contained in Woods Cove II, LLC’s motion for alternative service and its accompanying Affidavit of Due Diligence in Trying to Locate and Serve Defendants. The affidavit not only included Woods Cove II, LLC’s prior efforts to serve the Rouhanis, but also reflected the Saudi Arabia address of the Rouhanis that they had provided in the county tax rolls for service. The Rouhanis actually received notice, pursuant to Section 14-839(a)(5) of the Tax-Property Article. Judge Rubin did not abuse his discretion in entering an order that actually effected service of process.

We also disagree with the Rouhanis’ contention that service of 90 days’ notice was more appropriate than the 69 days provided. The statutory notice requirements of Section 14-839(a)(5) of the Tax-Property Article were complied with; the Rouhanis received actual notice.

As a result, the judgment of foreclosure is affirmed.

**JUDGMENT OF THE CIRCUIT COURT
FOR MONTGOMERY COUNTY
AFFIRMED. COSTS IN THIS COURT TO
BE PAID BY APPELLANTS.**