DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

REAL ESTATE SERVICES GROUP, INC.,

Appellant,

v.

JOSEPH V. MILLS and HICKORY LAKE ESTATES OWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation,

Appellees.

No. 2D2024-2630

October 23, 2026

Appeal pursuant to Fla. R. App. P. 9.130 from the County Court for Hillsborough County; Matthew Felix, Judge.

Matthew D. Wolf of Ivanov & Wolf, PLLC, Tampa, for Appellant.

Gabriel Strine of Strine Legal Services, PLLC, Odessa, for Appellee Joseph V. Mills.

No appearance for remaining Appellee.

VILLANTI, Judge.

Real Estate Services Group, Inc. (RESG), appeals the Agreed Order Vacating Foreclosure Sale and Returning Funds following its purchase at a judicial sale of homeowner Joseph Mills' property (the Property). Because RESG held a legally cognizable property interest as a third-party purchaser, the order on appeal violated RESG's due process rights to notice and to be heard before the trial court vacated the sale.

Accordingly, we reverse the order on appeal and remand to the trial court for further proceedings consistent with this opinion.

Background

The Property is subject to the covenants of the Hickory Lakes Estates Owners' Association, including payment of monthly fees. The Association placed a lien on Mills' Property for unpaid fees, and in February 2024, the Association sued Mills to foreclose upon its lien. After the Association moved for summary judgment, the trial court entered a final judgment of foreclosure on August 29, 2024. The judicial sale of the Property was set for October 18, 2024, and notice was published in *La Gaceta* newspaper. On September 25, 2024, Mills filed his answer and affirmative defenses, along with an emergency motion to vacate the final judgment of foreclosure, but he did not pay the judgment amount at that time.

RESG was the highest bidder at the judicial sale, and the Hillsborough County Clerk issued a certificate of sale on October 18, 2024. On October 23, 2024, Mills wired payment of the judgment amount to the Association's counsel. That same day, Mills filed an objection to the sale, an emergency motion to vacate the sale, and a notice of proof of his payment to the Association. Mills and the Association also submitted an agreed order to the trial court vacating the foreclosure sale and returning RESG's funds and asked the court to ratify the agreed order without hearing. RESG was not served with the emergency motion, notice of proof of payment, or agreed order. The agreed order effectively vacated the foreclosure sale and directed the clerk of court to *not* issue a certificate of title to RESG. The trial court entered the agreed order ex parte.

When RESG learned of the order vacating the judgment and sale of foreclosure, RESG objected that its right to be heard as a third-party purchaser had been denied. RESG moved to vacate the agreed order, which was denied. This appeal of the trial court's order followed.

Analysis

RESG raises two issues on appeal: that its due process rights were violated by the parties' failure to notice RESG about Mills' motion to vacate the judgment and sale and that Mills' right to redemption was extinguished upon the issuance of the certificate of sale. We find merit in RESG's due process argument; however, the argument that Mills' right to redemption was extinguished when the certificate of sale was issued was not raised below and has not been preserved for our consideration. *See Sunset Harbour Condo. Ass'n v. Robbins*, 914 So. 2d 925, 928 (Fla. 2005). An order vacating a foreclosure sale is generally reviewed for an abuse of discretion unless the trial court did not apply the correct legal standard in vacating the sale, in which case the de novo standard applies. *Gavidia v. Specialized Loan Servicing LLC*, 301 So. 3d 413, 416 (Fla. 2d DCA 2020).

"[P]rocedural due process serves as a vehicle to ensure fair treatment through the proper administration of justice where substantive rights are at issue." *Keys Citizens for Responsible Gov't, Inc. v. Fla. Keys Aqueduct Auth.*, 795 So. 2d 940, 948 (Fla. 2001) (quoting *Dep't of Law Enf't v. Real Prop.*, 588 So. 2d 957, 960 (Fla. 1991)). Property rights are among the most basic of substantive rights protected by the Florida Constitution. *Moser v. Barron Chase Sec.*, 783 So. 2d 231, 236 n.5 (Fla. 2001). "[A] third-party purchaser has a protectable legal interest in a parcel purchased at a foreclosure sale." *Skelton v. Lyons*, 157 So. 3d 471, 472 (Fla. 2d DCA 2015) (citing *Shlishey the Best, Inc. v. CitiFinancial*

Equity Servs., Inc., 14 So. 3d 1271, 1275 (Fla. 2d DCA 2009)). "When protected interests are implicated, the right to some kind of prior hearing is paramount." *A.R. v. Dep't of Child. & Fams.*, 336 So. 3d 830, 833–34 (Fla. 2d DCA 2022) (quoting *Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 569-70 (1972)).

This court has held that a third-party purchaser's inchoate interest carries "protectable legal rights." *See Shlishey*, 14 So. 3d at 1275 ("[W]hile Shlishey's rights in the property may have been inchoate during the ten-day objection period, it nevertheless had protectable legal rights in the property. Accordingly, Shlishey was entitled to notice and an opportunity to be heard before those rights were taken away."). Therefore, "when a sale is vacated without notice to and an opportunity to be heard by the purchaser, due process is violated." *Skelton*, 157 So. 3d at 472.

RESG's "protectable legal interest" arose upon the purchase at the judicial sale and issuance of the certificate of sale. *See id.*; *Avi-Isaac v. Wells Fargo Bank, N.A.*, 59 So. 3d 174, 177 (Fla. 2d DCA 2011). To suggest otherwise is to completely ignore the well-established rules of *Shlishey*, *Skelton*, and numerous holdings from our sister district courts. *See, e.g.*, *Carbonell LLC v. N. Am. Trading Grp.*, 404 So. 3d 502, 504 (Fla. 3d DCA 2024); *Residential Mortg. Servicing Corp. v. Winterlakes Prop. Owners Ass'n*, 169 So. 3d 253, 256 (Fla. 4th DCA 2015); *Martin Props., Inc. v. Fla. Indus. Inv. Corp.*, 833 So. 2d 825, 827 (Fla. 4th DCA 2002).

Conclusion

Because RESG was denied its due process rights to notice and to be heard, we reverse the order on appeal and remand to the trial court to conduct a duly noticed hearing on Mills' objection and emergency motion to vacate the foreclosure sale.

Reversed and remanded.

KELLY, J., Concurs.
ATKINSON, J., Concurs in result only.

Opinion subject to revision prior to official publication.