



had residents. On appeal, Sieron argues that the circuit court erred in imposing sanctions against him because he acted in good faith, reasonably believed that his statements were true and accurate when made, and did not file his report of proceedings vexatiously or with the intent to harass. In addition, Sieron contends that the purposeful inaction of the Church and the Logues allowed the confusion that led to the inaccuracies in the report of proceedings. Finally, Sieron posits that because the parties entered into an agreed order to vacate the tax deed without addressing the issue of sanctions, the Church and the Logues should have been precluded from filing such a motion. For the reasons that follow, we affirm.

¶ 3

### FACTS

¶ 4 On May 16, 2012, Sieron filed, in the circuit court of Fayette County, a petition for a tax deed for property located at 104 S. Hickory St. in the Village of Farina. According to the record, notice of the petition was sent via certified mail to Calvary Church and/or unknown occupants at 104 S. Hickory Street, in Farina; Eric L. Terlizzi, attorney at law for Calvary Church and/or Lester Logue and/or Stacy Logue, at 202 W. Schwartz in Salem; Lester Logue and/or Stacy Logue, at 239 S. Madison Street, Apt. 2, in Kinmundy; the county clerk of Fayette County; and Calvary Church at 206 S. Hickory Street, in Farina. However, confirmation of receipt was only returned for service on the county clerk of Fayette County and Eric L. Terlizzi, attorney at law. The other notices were returned as unclaimed or undeliverable.

¶ 5 On September 20, 2012, Sieron filed an application for an order directing issuance of a tax deed for the subject property. In the application, Sieron stated that "the notices provided by law to be given to the parties in interest and to the County Clerk of Fayette County, have been duly served and published as appears from the Notices, Affidavits and Certificates hereto attached." In addition, Sieron stated that he had "complied in all things with the provisions of the statutes in Illinois and is entitled to a Deed conveying said real

estate." Sieron attached a report of proceedings and affidavit in support of petition for tax deed to the application, in which he averred, *inter alia*, as follows:

"8. Petitioner has visited, or caused to be visited, the above-described land or lot and found there were no occupants in actual possession of such real estate, per IL Licensed Process Server:

A. GIVEN ADDRESS IS AN EMPTY LOT.

9. Petitioner, or another authorized and qualified agent of Petitioner, made a search of the appropriate records in the offices of the County Assessor, the County Recorder of Deeds, and, if appropriate, the Clerk of the Circuit Court. The following information is based on such search, made by a Representative of the Petitioner:

- a. The person in whose name the real estate was last assessed for general taxes is: CALVARY CHURCH (UPCI)
- b. The owners of said real estate are: CALVARY CHURCH (UPCI)
- c. There are no mortgages, liens, or judgments.
- d. Other parties interested in such real estate are:

1. TERRI BRAUN FAYETTE COUNTY CLERK"

¶ 6 On September 20, 2012, Sieron appeared before the circuit court for a hearing on his application for issuance of a tax deed. No other party appeared. The circuit court entered an order directing the issuance of a tax deed and an order for possession of the subject property to Sieron, finding, based on Sieron's representations, that the tax sale notice was served in the manner and within the time required by sections 22-10 and 22-30 of the Illinois Property Tax Code (35 ILCS 200/22-10, 22-30 (West 2012)), that all persons entitled thereto had due notice of the filing and the time of hearing on the petition for tax deed, and that Sieron had complied with all of the statutes of the State of Illinois relating to the sales of real estate for taxes and the issuance of tax deeds.

¶ 7 On October 16, 2012, the Church and the Logues filed, by and through their attorney, Eric Terlizzi, a petition to vacate the order directing issuance of the tax deed and the order for possession, and to dismiss the petition for tax deed with prejudice. The Church and the Logues alleged that the subject property consists of a single-family residence which was formerly used as a parsonage by the Church until the Church sold it to the Logues via an agreement for warranty deed (Agreement). According to the petition to vacate, the real estate has been occupied by the Logues since the Agreement was entered into on July 31, 2009, the possession by the Logues has been open and obvious, and the Agreement was recorded on August 5, 2009. The affidavit of Samuel Hester, the pastor at the Church, and the affidavit of the Logues, attesting to the facts stated in the petition to vacate, were attached, along with a copy of the Agreement and proof that it had been recorded.

¶ 8 On November 8, 2012, a hearing was held on the petition to vacate the tax deed. At that time, Sieron, through counsel, confessed to the petition to vacate the tax deed and agreed to the entry of an order setting it aside. Counsel for the Church and the Logues indicated their intent to redeem the property. On November 30, 2012, the circuit court entered an order setting aside the tax deed pursuant to the parties' stipulation.

¶ 9 On December 14, 2012, the Church and the Logues filed a motion for sanctions pursuant to Illinois Supreme Court Rule 137 (eff. Feb. 1, 1994). According to the motion for sanctions, the application for an order directing issuance of a tax deed and the report of proceedings and affidavit in support contained numerous statements which Sieron knew to be false or upon reasonable inquiry should have known were false. Specifically, the motion alleged that Sieron knew or should have known that the subject property was not an empty lot but a residence because he had photographs of the residence in his file at or before the time he filed his petition and the tax bills state that the property was improved with a residence. The motion also alleged that Sieron's statements that he had complied with the

notice provisions of the Property Tax Code were false because he did not provide actual notice to either the Church or the Logues. Attached to the motion was a statement showing the Church and the Logues had incurred \$1,880.85 in attorney fees to have the tax deed vacated.

¶ 10 On March 5, 2013, the parties appeared before the circuit court for a hearing on the motion for sanctions. Sieron testified as an adverse witness. He is the principal in a corporation by the name of Raven Securities, and the principal business of that corporation is to buy tax delinquent real estate. He has been involved in that business for 10 to 12 years and buys tax delinquent properties in multiple counties in the State of Illinois, including Fayette. If the taxes are not redeemed before proceeding to the petition for tax deed, the corporation, in most cases, assigns its interests in the properties to Sieron personally, so that he may proceed with a petition for tax deed *pro se*. His corporation purchases anywhere from 1,500 to 2,000 tax delinquent properties per year. Sieron testified that when he conducted his investigation regarding the delinquent taxes on the subject property, he ordered a title report which showed that the legal owner was the Church and that the property was subject to a contract for deed to the Logues. A picture of the property, which was contained in Sieron's file on the property, depicting the residence, was admitted as an exhibit.

¶ 11 Sieron testified that in making his statement in the affidavit in support of his application for a tax deed that the subject property was a vacant lot, he relied on the affidavit of a process server directed to serve Calvary Church at the subject property address, although he admitted that this information was in conflict with the other information contained in his file. Sieron stated that he made no efforts to verify the information he obtained from the process server. Sieron also testified that no one was personally served with notice of the hearing date on which he obtained the order directing issuance of the tax deed.

¶ 12 In defense of the motion for sanctions, Sieron testified that his service on attorney

Terlizzi, although not required by statute, was his good-faith attempt to provide notice to interested parties, and that he believed attorney Terlizzi, as preparer of the contract for deed on file at the recorder's office, would notify the Church and the Logues. Sieron testified that when he filed his affidavit in support of the application for issuance of a tax deed, he believed all of the information he provided was true and correct and he had no reason to believe that the affidavit of the process server was inaccurate. He testified that in his profession, it is not unusual for property to disappear off a lot between the time he files his petition and the time he appears in court to take a tax deed, and that this happens six to eight times a year. Documentation from his file in a Macon County case where this occurred was admitted as an exhibit.

¶ 13 Sieron testified that he discovered that the residence on the subject property had not been destroyed when he visited the subject property to take photographs in preparation for applying for a sale in error, which allows him to refuse the tax deed and get a refund on property that is destroyed or uninhabitable. Upon this discovery, he prepared a letter to the owners/occupants asking them to make a payment plan for redemption. He received a telephone call from attorney Terlizzi about a week later where they discussed the possibility of redemption. Sieron testified that he offered that they pay the redemption amount plus \$1,000. When attorney Terlizzi asked what the redemption amount was, Sieron guessed it to be about \$10,000, but later found out that the actual redemption amount was \$5,000. Accordingly, he sent a letter to attorney Terlizzi with the correct amount, which was admitted as an exhibit. In the letter, Sieron requested that the Church and the Logues settle for \$6,113.92.

¶ 14 On March 13, 2013, the circuit court entered an order granting the motion for sanctions and directing Sieron to pay \$1,880.25 for attorney fees necessitated by his inappropriate pleadings. In its order, the circuit court found that Sieron did not have a

reasonable basis for the facts alleged in his report of proceedings and affidavit "*formed after reasonable inquiry*" (emphasis in original) and that Sieron's efforts and inquiry fell far below a due diligence effort to insure accuracy of his pleadings and notice to the Church and the Logues. The circuit court made a specific finding that Sieron's pleadings were not well grounded in fact and specifically stated that it did not find that Sieron knowingly filed false pleadings, but that he, upon reasonable inquiry, could and should have known that they were false. The circuit court specifically disagreed with Sieron's suggestion that the Church and the Logues could have avoided attorney fees and expenses by timely exercising rights of redemption per previous notices and by avoiding the entry of the order directing the tax deed in the first place, finding that failures on the part of the Church and the Logues did not negate Sieron's filing of a certification of inaccurate facts alleged to be based upon reasonable inquiry, which in fact, were not. Sieron filed a timely notice of appeal from the circuit court's order.

¶ 15

#### ANALYSIS

¶ 16 At the time Sieron filed his application for issuance of a tax deed and record of proceedings and affidavit in support of said application, Illinois Supreme Court Rule 137 (eff. Feb. 1, 1994)<sup>1</sup> provided, in relevant part, as follows:

"A party who is not represented by an attorney shall sign his pleading, motion, or other paper and state his address. \*\*\* The signature of a \*\*\* party constitutes a certificate by him that he has read the pleading, motion or other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well

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<sup>1</sup>A January 4, 2013, amendment, in effect at the time the circuit court ruled on the motion for sanctions, but made after Sieron filed his application for a tax deed and the Church and the Logues filed their motion for sanctions, substituted the word "document" for "paper" throughout the rule.

grounded in fact \*\*\*. \*\*\* If a pleading, motion, or other paper is signed in violation of this rule, the court, upon motion or upon its own initiative, may impose upon the person who signed it \*\*\* an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred because of the filing of the pleading, motion or other paper, including a reasonable attorney fee." Ill. S. Ct. R. 137 (eff. Feb. 1, 1997).

¶ 17 The decision as to whether sanctions should be imposed is within the sound discretion of the circuit court and will not be reversed on appeal absent an abuse of discretion. *Olsen v. Staniak*, 260 Ill. App. 3d 856, 863 (1994) (citing *Yassin v. Certified Grocers of Illinois, Inc.*, 133 Ill. 2d 458, 467 (1990)). The circuit court's order imposing sanctions should clearly set forth the factual basis for its decision in order to be afforded deferential treatment. *Id.* This court, on review of an order granting a motion for sanctions, must primarily determine whether (1) the circuit court's decision was an informed one, (2) the decision was based on valid reasons that fit the case, and (3) the decision followed logically from the application of the reasons stated. *Id.* at 863-64.

¶ 18 Applying these principles to the case at bar, our review of the circuit court's order reveals that the circuit court did clearly set forth the factual basis for its decision, as detailed above, and as such, is entitled to great deference. On appeal, Sieron argues that he at all times acted in good faith and reasonably believed that his statements were true and accurate when made and that he was justified in relying on the sworn statement of the process server that the property was a vacant lot. The circuit court disagreed, finding that Sieron did not make reasonable inquiry into the status of the lot prior to filing his pleadings. This finding is entitled to deference, and we will not disturb it, especially in light of the evidence in the record that Sieron had prior knowledge that the lot was improved with a home. In addition, it is irrelevant whether or not Sieron filed his pleadings with the intent to delay or harass, as

the court specifically found that Sieron did not knowingly file false pleadings, but rather failed to make reasonable inquiry into the facts stated in his pleadings. A failure to make reasonable inquiry as to the accuracy of facts stated in the pleadings is sanctionable under Illinois Supreme Court Rule 137 (eff. Feb. 1, 1994), which requires a certification that such inquiry has been made.

¶ 19 Although not cited by the circuit court, our review of the record reveals other false or incomplete statements made by Sieron in his application for tax deed and report of proceedings and affidavit in support. For example, Sieron states in his affidavit that all notices have been duly served on all interested parties. The record reveals that neither the Church nor the Logues were personally served with the notices, and certified letters to them were returned. In addition, Sieron failed to list the Logues as either owners or interested parties based on his title search, when evidence in the record reveals that the contract for deed between the Church and the Logues was recorded and that Sieron was in possession of a title report which reflected this. If Sieron had been forthcoming with the circuit court regarding the information in his possession regarding the facts, including information that there had been a residence on the property, that the Logues and the Church had not received actual notice of the proceeding, and that there was a recorded contract for deed on the property, it is doubtful that the circuit court would have granted the tax deed on September 20, 2012.

¶ 20 We further reject, as did the circuit court, Sieron's argument that Rule 137 sanctions were unwarranted because the Church and the Logues allowed the confusion that led to the inaccuracies in the report of proceedings and necessitated that they incur attorney fees to vacate the tax deed. According to Sieron, had the Church and the Logues contacted him to redeem the property in May 2012 after attorney Terlizzi forwarded the notice of application for tax deed to them, they would have negated Sieron's belief that the property was vacant

and would not have hired counsel to have the tax deed vacated. We concur with the circuit court's finding that Sieron's duty under Rule 137 to file pleadings that are well grounded in facts based upon reasonable inquiry is separate and independent from any actions taken by the Church and the Logues. Again, had Sieron fully apprised the circuit court of all the circumstances surrounding the facts as stated in his application for tax deed, as was his duty under Rule 137, the tax deed would not have been granted in the first place.

¶ 21 Finally, Sieron argues that Rule 137 sanctions are not proper in this case because the parties entered into an agreed order to vacate and did not address the issue of whether the Church and the Logues were preserving their right to file a motion for sanctions. According to Sieron, the agreed order was tantamount to a settlement or release of all claims. First, Sieron did not raise this issue before the circuit court, and it is therefore waived. See *In re Estate of Zander*, 242 Ill. App. 3d 774, 777 (1993). Further, waiver aside, we find that the fact that Sieron confessed error at the hearing on the motion to vacate the tax deed, necessarily agreeing to the order to vacate, does not relieve him of his obligation to file his pleadings after making reasonable inquiry as to the facts presented to the circuit court. If that were the case, there would be nothing to prevent the filing of such pleadings. Such a situation is different than that presented in *Olsen v. Staniak*, 260 Ill. App. 3d 856 (1994), the case cited by Sieron in support of his argument.

¶ 22 In *Olsen*, an agreed order was entered into by the parties to dismiss a cause of action. *Id.* at 859. At the time the order was entered into, a motion for sanctions was also on file in the case. *Id.* The agreed order only dismissed any claims and counterclaims on file, but did not state that the motion for sanctions would be dismissed. *Id.* The *Olsen* court held that the defendant could proceed on the motion for sanctions, as it had not been disposed of by the agreed order. *Id.* at 861. As such, the *Olsen* court was simply addressing whether or not an agreed order disposed of a pending motion for sanctions. It in no way held that a party has

to expressly reserve a right to file a motion for sanctions in agreeing to vacate an order that was entered based on pleadings that violated Rule 137. For all of these reasons, we find that the circuit court did not abuse its discretion in entering an order granting the motion for Rule 137 sanctions.

¶ 23

#### CONCLUSION

¶ 24 For the foregoing reasons, the March 13, 2013, order of the circuit court of Fayette County, which awarded attorney fees in the amount of \$1,880.25 to the Church and the Logues, based on Sieron's filing of pleadings not well grounded in fact in violation of Illinois Supreme Court Rule 137 (eff. Feb. 1, 1994), is hereby affirmed.

¶ 25 Affirmed.