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## FIFTH DISTRICT

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

Honorable  
Ronald R. Eckiss,  
Judge, presiding.

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judicial sale of four tracts of land owned by the defendant, Sun Industries, Inc. The circuit court entered a judgment of foreclosure and authorized the sale of the four tracts pursuant to provisions of the Illinois Mortgage Foreclosure Law (Foreclosure Law) (735 ILCS 5/15-1101 *et seq.* (West 2010)). Sun Industries filed an emergency motion to stay the judicial sale, but the motion was denied. The sheriff of Massac County conducted a sale by public auction and filed a report of the sale in the circuit court. The Bank then filed a motion to confirm the sheriff's report of sale. Sun Industries filed an objection to the entry of an order confirming the sale and distribution on the grounds that each auctioned tract was sold for significantly less than its fair market value, that the notice of sale was not properly published in accordance with the requirements set forth in section 15-1507(c) of the Foreclosure Law (735 ILCS 5/15-1507(c) (West 2010)), and that sales of tracts I and II were unnecessary where the sum offered for tract III was sufficient to satisfy the judgment of foreclosure, including all interest, costs, and attorney fees. The circuit court overruled the objection and entered an order confirming the sheriff's report of sale and distribution.

¶ 3 On appeal, Sun Industries argues that the circuit court abused its discretion in confirming the sale of all three tracts where the sum offered for tract III was sufficient to satisfy the judgment of foreclosure, rendering confirmation of the sales of tracts I and II unnecessary and unjust. Sun Industries also argues that the circuit court erred in confirming the sale and distribution where the notice of judicial sale was not published in accordance with the statutory provisions of the Foreclosure Law. We affirm in part and reverse in part.

¶ 4 Sun Industries is the mortgagor and the owner of the four tracts of real estate that are subjects of this foreclosure action. The judgment of foreclosure was entered on March 22, 2010. The judgment authorized the sale of the four tracts as necessary to satisfy the judgment of foreclosure, but it did not specify the order in which the

separate tracts should be sold. The total amount owed to the Bank was \$1,514,291.29. The judicial sale by public auction was conducted by the sheriff of Massac County on June 24, 2010. Tract I was auctioned first and the highest bid was \$165,000. Tract II was auctioned next and the highest bid was \$50,000. Tract III was then auctioned and the highest bid was \$1.9 million. Tract IV was not put up for auction as the bids on the preceding three tracts were sufficient to satisfy the judgment of foreclosure.

¶ 5 Under Illinois law, a judicial foreclosure sale is not complete until it has been approved by the trial court. *Schultz v. Milburn*, 366 Ill. 400, 403, 9 N.E.2d 199, 200 (1937); *Citicorp Savings of Illinois v. First Chicago Trust Co. of Illinois*, 269 Ill. App. 3d 293, 300, 645 N.E.2d 1038, 1045 (1995). The highest bid received by a sheriff at a judicial sale is merely an irrevocable offer to purchase the property, and acceptance of the offer takes place only when the court confirms the sale. *Schultz*, 366 Ill. at 403, 9 N.E.2d at 200; *Citicorp Savings*, 269 Ill. App. 3d at 300, 645 N.E.2d at 1045. A trial court has broad discretion in approving or disapproving a judicial sale. *Schultz*, 366 Ill. at 403, 9 N.E.2d at 200. A trial court is justified in refusing to approve a judicial sale upon a showing of unfairness that prejudices an interested party. *Citicorp Savings*, 269 Ill. App. 3d at 300, 645 N.E.2d at 1045. A court of review will not disturb the trial court's decision absent an abuse of discretion. *Schultz*, 366 Ill. at 403, 9 N.E.2d at 200.

¶ 6 Section 15-1507(d) of the Foreclosure Law states: "If the real estate which is the subject of a judgment of foreclosure is susceptible of division, the court may order it to be sold as necessary to satisfy the judgment. The court shall determine which real estate shall be sold, and the court may determine the order in which separate tracts may be sold." 735 ILCS 5/15-1507(d) (West 2010).

¶ 7 Section 15-1508(b) of the Foreclosure Law provides in pertinent part that upon

appropriate motion and notice, the court shall conduct a hearing to confirm the sale, and that unless the court finds that (i) a required notice was not given, (ii) the terms of the sale were unconscionable, (iii) the sale was conducted fraudulently, or (iv) justice was otherwise not done, the court shall then confirm the sale. 735 ILCS 5/15-1508(b) (West 2010).

¶ 8 Here, the judgment of foreclosure provided no specific directions regarding the order

of sale of tracts I, II, III, and IV, and the sheriff simply auctioned the tracts in the same order as they were identified in the judgment of foreclosure. It is undisputed that the highest bid on tract III would completely satisfy the debt, interest, costs, and attorney fees owed under the judgment of foreclosure. A sale is not final until confirmed, and the accepted bidder acquires no independent right to have the purchase completed. In this case, confirmation of the sales of tracts I and II unfairly prejudiced Sun Industries and did not benefit the Bank, as mortgagee, and justice was not done. We find that the trial court abused its discretion in confirming the sale of tracts I and II.

¶ 9 Sun Industries also claims that the circuit court erred in confirming the sheriff's report of sale and distribution because the notice of judicial sale was not published in accordance with provisions of section 15-1507(c) of the Foreclosure Law (735 ILCS 5/15-1507(c) (West 2010)). More specifically, Sun Industries contends that the notice of sale was not properly published because it was not separately advertised in both the legal notice section and the real estate section of the newspaper.

¶ 10 Section 15-1507(c)(2) states that the notice of public sale shall be published once

each week for at least three consecutive weeks in a newspaper of general circulation in the county in which the real estate is located, and that the first notice shall be published not more

than 45 days prior to the sale and that the last notice shall be published not less than 7 days prior to the sale. 735 ILCS 5/15-1507(c)(2) (West 2010). The record shows that the publication of the notice was in compliance with these provisions. Section 15-1507(c)(2) further states that the notice of public sale shall be advertised in the section of the newspaper where legal notices are commonly placed and in the section where real estate is advertised for sale, but that where the newspaper does not have separate sections for legal notices and real estate, a single advertisement is sufficient. 735 ILCS 5/15-1507(c)(2) (West 2010). Sun Industries has offered no evidence and there is nothing in the record to support its contention that the newspaper in which the notice was published had separate sections for publication of legal notices and for advertisement of real estate. Sun Industries has not established that the publication of the notice of sale deviated from the requirements of section 15-1507(c)(2) of the Foreclosure Law.

¶ 11 Accordingly, the judgment of the circuit court of Massac County is affirmed in part and reversed in part. That portion of the order confirming the judicial sale and distribution of tracts I and II is reversed, and that portion of the order confirming the sale and distribution of tract III is affirmed.

¶ 12 Affirmed in part and reversed in part.