Order

Michigan Supreme Court
Lansing, Michigan

March 20, 2025

Elizabeth T. Clement,
Chief Justice

168233 & (15)

Brian K. Zahra
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden
Kimberly A. Thomas,
Justices

LYNETTE HATHON and AMY JO DENKINS, Individually and on Behalf of All Others Similarly Situated,
Plaintiffs-Appellees,

v

SC: 168233
COA: 374332
Ct of Claims: 19-000023-MZ

STATE OF MICHIGAN,
Defendant-Appellant.

_____/

By order of March 14, 2025, we stayed proceedings in the Court of Claims. On order of the Court, the application for leave to appeal the February 25, 2025 order of the Court of Appeals and the motion for peremptory reversal are again considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we grant the motion and REVERSE the Court of Claims' order denying the defendant's motion for summary disposition and granting the plaintiffs' motion for recertification, and we REMAND this case to that court for entry of an order denying certification and dismissing the plaintiffs' claims without prejudice. The stay of proceedings in the Court of Claims is dissolved.

As this Court previously held in this case, "MCL 211.78t creates a controlling and structured system for adjudication of tax-foreclosure disputes as the exclusive means of obtaining surplus proceeds." *Schafer v Kent Co*, ___ Mich ___, ___ (July 29, 2024) (Docket Nos. 164975 and 165219), slip op at 35. Indeed, the statute expressly states that "[t]his section is the exclusive mechanism for a claimant to claim and receive any applicable remaining proceeds under the laws of this state." MCL 211.78t(11). This mechanism works within the confines of existing tax-foreclosure lawsuits filed in circuit court by the foreclosing unit of government without claimants having to file a counterclaim or initiating a new lawsuit against any person or entity. Thus, the circuit court that presided over the tax-foreclosure action retains jurisdiction over post-foreclosure proceedings under MCL 211.78t. This means that the Court of Claims' exclusive jurisdiction over claims against the state of Michigan under MCL 600.6419(1)(a) is not implicated with respect to claims for remaining proceeds under MCL 211.78t. The Court of Claims lacks authority to create a new mechanism for processing claims to these proceeds or to certify a class for

that purpose, and it erred by doing so.[1] For a claimant to preserve their right to claim remaining proceeds under MCL 211.78t, they must initiate the statutory process by providing the foreclosing unit of government notice of their intent to seek remaining proceeds by March 31, 2025, using a form prescribed by the Department of Treasury.[2] See MCL 211.78t, (6); *Schafer*, ___ Mich at ___; slip op at 39-42.

We do not retain jurisdiction.

[1] We take no position as to the merits of the plaintiffs' assertion that they are also entitled to recover interest and attorney fees or their claim that the sales commission under MCL 211.78t(9) is unconstitutional. However, litigation of these claims is premature. Properly notified claimants must first utilize the statutory process provided by MCL 211.78t for recovery of remaining post-foreclosure sale proceeds before challenging the adequacy of or the application of that process as applied to them. See, e.g., *In re Petition of Muskegon Co Treasurer for Foreclosure*, ___ Mich App ___ (October 26, 2023) (Docket No. 363764), lv den ___ Mich ___ (2024); *Nelson v City of New York*, 352 US 103; 77 S Ct 195; 1 L Ed 2d 171 (1956).

[2] The Department of Treasury has made the required forms available online. See Michigan Department of Treasury, *Auctions and Claimants* <https://www.michigan.gov/taxes/property/forfeiture-foreclosure/county/auctions-and-claimants> (accessed March 20, 2025) [https://perma.cc/J6UN-JVLM].

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 20, 2025

Clerk

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