
The Court of Appeals of Maryland Clarifies a Receiver's Ability to Sell Real Property

15 May 2020

Christopher A. Glaser

Similar to other businesses that are slowly beginning to reopen, the appellate courts are increasing the amount of decisions being issued. On May 12, 2020, the Court of Appeals of Maryland issued an important decision which reversed the intermediate appellate court and clarified a receiver's ability to sell real property.

In *Mayor and City Council of Baltimore v. Prime Realty Associates, LLC*, the City of Baltimore initiated a receivership action against Prime Realty. The City sought to serve Prime Realty's registered agent with the petition but was unable to locate him as he had moved and did not properly update his address. The agent had attempted to update his address to a post office box, but this request was rejected by the State Department of Assessments and Taxation ("SDAT"). After these failed attempts, the City made substitute service on the SDAT, Prime Realty's designated agent pursuant to the Maryland Rules. During the receivership action, real property owned by Prime Realty was sold to a third party and the trial court ratified the sale. Prime Realty moved to vacate the sale after ratification, claiming that it was not served with the petition and that the decision was therefore void on due process grounds.

The trial court disagreed with Prime Realty but, on the first level of appeal, the intermediate appellate court agreed that Prime Realty's due process rights were violated as the City had actual knowledge of a potential alternative address for the agent. The intermediate appellate court vacated the sale. Importantly, the intermediate appellate court's action potentially jeopardized the title of other receivership sales as a claim of non-service is not time-barred by any Maryland statute.

The Court of Appeals examined the history of the substituted service rules, first enacted in 1937, and noted that they had not been previously challenged on due process grounds. Nowhere in the prior versions of the statute or rules, nor in the legislative histories, appeared any burden to look behind the appointment of SDAT as an agent. The Court of Appeals noted that it was Prime Realty's burden to maintain the current address of its agent and failing to do so did not result in a due process violation. The intermediate appellate court erred in invalidating the sale, and the ratification by the trial court was affirmed.

Jackson & Campbell, P.C. represents title insurers and insureds in Maryland, Virginia, and Washington, D.C. and we strive to keep our clients and other title professionals up to date on various developments in the law. Additionally, we present no cost in-house updates of the nation's most noteworthy cases and national trends following the spring and fall American Land Title Association's Title Counsel meetings.

If you have any questions about this case or laws impacting real estate in and around the Washington, D.C. region, feel free to contact us. Our [Real Estate Litigation and Transactions](#) Practice Group is ready to assist.

The Court of Appeals of Maryland Clarifies a Receiver's Ability to Sell Real Property

(CONTINUED)

THE COURT OF APPEALS OF MARYLAND CLARIFIES A RECEIVER'S ABILITY TO SELL REAL PROPERTY

15 May 2020

Christopher A. Glaser

Similar to other businesses that are slowly beginning to reopen, the appellate courts are increasing the amount of decisions being issued. On May 12, 2020, the Court of Appeals of Maryland issued an important decision which reversed the intermediate appellate court and clarified a receiver's ability to sell real property.

In *Mayor and City Council of Baltimore v. Prime Realty Associates, LLC*, the City of Baltimore initiated a receivership action against Prime Realty. The City sought to serve Prime Realty's registered agent with the petition but was unable to locate him as he had moved and did not properly update his address. The agent had attempted to update his address to a post office box, but this request was rejected by the State Department of Assessments and Taxation ("SDAT"). After these failed attempts, the City made substitute service on the SDAT, Prime Realty's designated agent pursuant to the Maryland Rules. During the receivership action, real property owned by Prime Realty was sold to a third party and the trial court ratified the sale. Prime Realty moved to vacate the sale after ratification, claiming that it was not served with the petition and that the decision was therefore void on due process grounds.

The trial court disagreed with Prime Realty but, on the first level of appeal, the intermediate appellate court agreed that Prime Realty's due process rights were violated as the City had actual knowledge of a potential alternative address for the agent. The intermediate appellate court vacated the sale. Importantly, the intermediate appellate court's action potentially jeopardized the title of other receivership sales as a claim of non-service is not time-barred by any Maryland statute.

The Court of Appeals examined the history of the substituted service rules, first enacted in 1937, and noted that they had not been previously challenged on due process grounds. Nowhere in the prior versions of the statute or rules, nor in the legislative histories, appeared any burden to look behind the appointment of SDAT as an agent. The Court of Appeals noted that it was Prime Realty's burden to maintain the current address of its agent and failing to do so did not result in a due process violation. The intermediate appellate court erred in invalidating the sale, and the ratification by the trial court was affirmed.

Jackson & Campbell, P.C. represents title insurers and insureds in Maryland, Virginia, and Washington, D.C. and we strive to keep our clients and other title professionals up to date on various developments in the law. Additionally, we present no cost in-house updates of the nation's most noteworthy cases and national trends following the spring and fall American Land Title Association's Title Counsel meetings.

If you have any questions about this case or laws impacting real estate in and around the Washington, D.C. region, feel free to contact us. Our [Real Estate Litigation and Transactions](#) Practice Group is ready to assist.

TAGGED: Court of Appeals of Maryland, Due Process, Real Estate News Maryland, Mayor and City Council of Baltimore v. Prime Realty Associates LLC