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This opinion shall not "constitute precedent or be binding upon any court."
Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-5018-15T2

STAPLE SEWING AIDS PENSION
MONEY PURCHASE PLAN,

Plaintiff-Respondent,

v.

GEORGE ZAHODNICK INDIVIDUALLY
AND AS CO ADMINISTRATOR OF THE
ESTATE OF RICHARD ZAHODNICK,

Defendant-Appellant,

and

THERESA MILLER INDIVIDUALLY AND
AS CO ADMINISTRATOR OF THE ESTATE
OF RICHARD ZAHODNICK, STEPHAN
ZAHODNICK, MICHAEL ZAHODNICK,
HUSBAND OF THERESA MILLER, AND
WIFE OF STEPHAN ZAHODNICK, WIFE
OF MICHAEL ZAHODNICK,

Defendants.

Submitted November 9, 2017 – Decided December 8, 2017

Before Judges Koblitiz, Manahan and Suter.

On appeal from Superior Court of New Jersey,
Chancery Division, Union County,
Docket No. F-029558-14.

George Zahodnick, appellant pro se.

Howard D. Lipstein, attorney for respondent.

PER CURIAM

Defendant George Zahodnick¹ appeals from a June 24, 2016 order fixing the amount for redemption of a tax sale certificate of \$25,977.12, including interest, taxes and statutory expenses, plus costs of suit of \$1115.00. Plaintiff Staple Sewing Aids Pension Money Purchase Plan was the successful bidder for the tax sale certificate following Zahodnick's failure to pay taxes. Staple filed a foreclosure complaint, after which Zahodnick redeemed the certificate, ending the foreclosure. We agree with Zahodnick that the amount due should be reduced by the interest charged on a tax payment Staple made in November 2010 before the ten-day grace period expired. The remaining thirteen issues Zahodnick raises on appeal are either mooted out by his redemption of the certificate or meritless.

Any issues regarding the foreclosure litigation became moot when the tax certificate was redeemed. "An issue is moot when the court's decision sought in a matter, when rendered, can have no practical effect on the existing controversy." Redd v. Bowman, 223 N.J. 87, 94 (2015). We may, however, consider the merits of

¹ Theodore Richard Zahodnick died and George Zahodnick, his son and heir, was substituted as defendant.

a significant public issue, notwithstanding its mootness. See Nini v. Mercer Cty. Cmty. Coll., 202 N.J. 98, 101 (2010) ("Technically, a moot issue may be judicially reviewed when the matter is of public interest.").

The dispute over the amount due remains valid after redemption because a refund from plaintiff is available. Also, even if redemption were considered to have rendered the dispute over the amount due moot, we would deem it important to establish that an owner of a tax certificate may not pay taxes prior to the last due date, which is an issue that may well recur under similar circumstances. See Clymer v. Summit Bancorp, 171 N.J. 57, 65-66 (2002) (deciding an issue that, "although technically moot, presents a question that is both important to the public and likely to recur"). We review the trial court's legal decision de novo. Scannavino v. Walsh, 445 N.J. Super. 162, 165 (App. Div. 2016).

On October 21, 2010, Staple successfully bid for tax sale certificate No. 10-00061 on Zahodnick's property, which was sold by the Union Township Collector of Taxes. Almost five years later, on March 18, 2015, Staple filed a Third Amended Foreclosure Complaint naming George Zahodnick as a defendant, personally served it on Zahodnick, and then successfully moved to strike the answer. Zahodnick redeemed the certificate on August 18, 2016, ending the foreclosure litigation.

Zahodnick argues on appeal that Staple was wrongly allowed to pay his November 1, 2010 tax bill prior to the expiration of the ten-day grace period, thereby preventing him from paying those taxes within time. Because of this premature payment of taxes, Zahodnick argues that any interest accrued on that payment should be subtracted from the amount due. We agree.

N.J.S.A. 54:5-21 states that the collector "shall enter on the list [of the land subject to sale] all taxes, assessments and other municipal charges which were a lien at the close of the fiscal year." The fourth installment of taxes was due on November 1, 2010. See N.J.S.A. 54:4-66 ("Taxes for municipalities operating under the calendar fiscal year shall be payable the first installment as hereinafter provided on February 1, the second installment on May 1, the third installment on August 1 and the fourth installment on November 1.").² As plaintiff concedes, Zahodnick had ten days after November 1 to pay his taxes. Tax Office Union Township, <http://www.uniontownship.com/137/Tax->

² The Union Township Tax Office website states that "[p]roperty taxes are due on February 1, May 1, August 1 and November 1," which is in accordance with the state's Department of the Treasury. Tax Office Union Township, <http://www.uniontownship.com/137/Tax-Office> (last visited November 1, 2017); see New Jersey Division of Taxation General Property Tax Information, <http://www.state.nj.us/treasury/taxation/lpt/genlpt.shtml> (last visited November 1, 2017) ("Property tax payments are due annually in four installments, February 1, May 1, August 1 and November 1.").

Office (last visited November 1, 2017) (Union Township "permit[s] a 10 day grace period."); see N.J.S.A. 54:4-67 ("The governing body [of each municipality] may provide that no interest shall be charged if payment of any installment is made within the tenth calendar day following the date upon which the same became payable.").

The ten-day grace period from November 1 extends until November 11, 2010. Staple paid on November 9, 2010, before the grace period had expired.³ Zahodnick did not miss the November 2010 tax payment because he still had time to pay. Thus, any interest charged on this November 2010 payment was improperly imposed. Staple acknowledges that Zahodnick only missed three other payments after the purchase of the tax certificate.

The other issues Zahodnick raises on appeal, concerning statutory interpretation of the New Jersey Tax Sale Law, N.J.S.A. 54:5-1 to -137, and enforcement of the Rules, lack sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E).

³ We take judicial notice that Thursday, November 11, 2010, was Veterans Day. "[W]hen the last day prescribed (including any extensions of time) for filing a document, making a payment, or performing any act falls on a Saturday, Sunday or a day which is a legal holiday in the State of New Jersey, the performance of such acts will be considered timely if performed on the next succeeding business day." N.J.A.C. 18:2-4.12.

Reversed and remanded to the trial court for recalculation of the amount due to reflect the subtraction of interest on the November 2010 payment, in conformance with this opinion. We do not retain jurisdiction.

I hereby certify that the foregoing is a true copy of the original on file in my office.



CLERK OF THE APPELLATE DIVISION