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Creating value by clearing title through specialized court-supervised proceedings - by John Dorsey

July 27, 2018 - Spotlights

John Dorsey,
Ferrucci Russo P.C.

The ability to quickly and efficiently clear title issues from a property is key to maximizing the value of a property in a sale transaction. When traditional techniques do not resolve title issues, the value of a pending, or potential sale transaction can be substantially damaged or wholly lost. There are several types of specialized Court-Supervised proceedings that can be tailored towards resolving various title and transactional issues in a pending or potential sale.

One technique often utilized is a Court-supervised proceeding as provided by R.I.G.L. §34-16-1 et. seq. (the “Quiet Title Act”). The Quiet Title Act provides in part that “any person or persons claiming title to real estate, which title is based upon or has come through a deed of a tax collector or town or city treasurer upon sale of real estate for the collection of taxes, assessments, or municipal liens of any kind, or of a sheriff on execution sale, or any deed, grant, or conveyance given under judicial proceedings, or otherwise, the validity of which depends upon notice of any kind, may, although his or her title to the real estate is undisputed, bring a civil action against the person or persons whose title and interest, or either, were sold out under the sale or proceedings, and against any other persons that may be interested in the real estate because of the sale or proceedings or the giving of such a deed to determine the validity of the title or estate of the person or persons therein, to remove any cloud thereon, and to affirm and quiet the possession and title of the person or persons...”

In Rhode Island, the Quiet Title Act process allows a party claiming ownership in real estate to petition the Superior Court to remove liens, clouds, or other encumbrances from the real estate. In this process, the focus is on removing discreet, identifiable encumbrances from the title, often to allow a pending sale transaction to proceed to a closing.

When a sale is not already pending, another form of Court-Supervised proceeding is an equitable form of Receivership. An equitable Receivership is, in part, another form of proceeding to quiet title to a property. In this proceeding, the petitioning party seeks to remove the encumbrances from title.

A primary distinction between a quiet title action and this type of equitable Receivership, is that the in an equitable Receivership, the process allows for a competitive marketing and sale process for the real estate; the goal being to maximize the value of the real estate.

This process can be particularly beneficial where the encumbrances on the title have prevented the property from being actively marketed. Further, the competitive sale process has been extremely successful in creating value for all stakeholders, including equity owners. This process can be efficient from a cost and time perspective in advancing a pending sale to a successful conclusion.

Another form of Court-Supervised proceeding is an equitable Mastership. In this context, there may or may not be a pending sale transaction. In either scenario, the ability to convey the real estate has been stalled due to title and other transactional issues (i.e. personal or corporate tax filings, good standing certificates, inability to provide corporate authority, etc.) between the seller and prospective buyer. In this situation, the Court-Supervised process can be beneficial in appointing a Special Master to address both the title and other transactional issues, preventing a closing from occurring. In this context, the Court-Supervised proceeding preserves the value in the sale process to the benefit of all parties involved.

In any of the above examples, when utilized, these types of specialized Court-Supervised proceedings can be an efficient tool in resolving title and transactional issues that otherwise prevent a property from being marketed and reaching a successful sale.

John Dorsey Jr., Esq., is an attorney with Ferrucci Russo P.C., Providence, R.I.

New England Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540