IN THE SUPREME COURT OF THE STATE OF DELAWARE

THOMAS E. WALSTON,	§	
	§	No. 594, 2012
Defendant Below-Appellant,	§	
	§	
	§	Court Below—Superior Court
v.	§	of the State of Delaware
	§	in and for New Castle County
DEUTSCHE BANK NATIONAL TRUST COMPANY, as Trustee for ARGENT SECURITIES INC. ASSET-BACKED PASS-THROUGH CERTIFICATES, SERIES 2006-W1,	§	C.A. No. N09L-10-012
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	§	
Plaintiff Below-Appellee.	§	

Submitted: April 12, 2013
Decided: May 9, 2013

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices

O R D E R

This 9th day of May 2013, upon consideration of the briefs of the parties and the record below, it appears to the Court that:

(1) The defendant-appellant, Thomas E. Walston, filed an appeal from the Superior Court's October 16, 2012 and November 29, 2012 orders denying reconsideration of the Superior Court's Commissioner's September 14, 2012 decision, which denied Walston's motion to stop confirmation of the sale of the real property located at 224 W. 20th Street, Wilmington,

Delaware (the "Property").[1] We find no merit to the appeal. Accordingly, we affirm.

(2) The record before us reflects that the plaintiff-appellee, Deutsche Bank National Trust Company (the "Bank"), foreclosed on the Property, which was sold at sheriff's sale on July 10, 2012. One-Pie Investments was the high bidder at $39,880.00. One-Pie subsequently assigned its interest in the Property to Cliff Werline. Confirmation of the sheriff's sale was scheduled for August 24, 2012. On August 23, 2012, Walston filed a motion to stop confirmation of the sheriff's sale. Both Werline and the Bank filed responses in opposition to the motion. On September 14, 2012, following a hearing, the Superior Court Commissioner denied Walston's motion. On October 16, 2012, the Superior Court issued an order denying Walston's motion to reconsider the Commissioner's decision. This appeal followed.[2]

(3) The transcript of the September 14, 2012 hearing before the Commissioner reflects that Werline submitted a document entitled Brokers

[1] The record reflects that the Superior Court's October 16, 2012 order was not signed by the judge. The Superior Court's later order dated November 29, 2012 contained the same language as the October 16, 2012 order, but this time was signed by the judge. The November 29, 2012 order has now superseded the earlier order on the Superior Court's docket.

[2] On January 18, 2013, Walston filed an emergency motion for stay of execution in this Court, which was denied on January 29, 2013. *Walston v. Deutsche Bank*, Del. Supr., No. 594, 2012, Jacobs, J. (Jan. 29, 2013).

Price Opinion ("BPO"), which was generated by a local real estate expert. The BPO examined 21 units comparable to the Property that had been sold in the local area, 19 comparable units that had been listed and 6 comparable units that were under contract. Utilizing that data, the BPO assigned a value to the Property of $55,000. The transcript also reflects that the high bid of $39,880 at the sheriff's sale was the result of active bidding among at least three bidders and was greater than 50% of the value of the Property, in accordance with the valuation provided by the BPO. The evidence presented by Walston consisted solely of two one-page print-outs from two Internet websites called "Zillow" and "Epraisal," each of which provided an appraisal on the Property of approximately $170,000.

(4) In this appeal, Walston claims that the Superior Court abused its discretion when it denied his motion for reconsideration of the Superior Court Commissioner's decision. The basis for his claim is that the sale price of the Property was significantly less than it is worth.

(5) Under Superior Court Civil Rule 132(a) (3) (iv), the Superior Court will overturn a decision of a Commissioner only if the Commissioner's order is based upon findings of fact that are clearly erroneous or contrary to law, or if it constitutes an abuse of discretion. The Superior Court has broad discretion to either confirm or set aside a sheriff's

sale and its decision will be overturned only for abuse of discretion.[3] A sheriff's sale may be set aside when the sales price is so grossly inadequate that it shocks the conscience of the court.[4] Special judicial scrutiny is required when a property sold at sheriff's sale fails to secure a bid representing at least 50% of its fair market value.[5]

(6) The Superior Court's order denying reconsideration of the Commissioner's decision notes that the Commissioner weighed the competing valuations of the Property and found Werline's more reliable. Moreover, the high bid on the Property exceeded 50% of Werline's valuation. In the absence of any error or abuse of discretion, the Superior Court determined that there was no basis upon which to overturn the Commissioner's decision. We agree and, therefore, conclude that the Superior Court properly denied Walston's motion for reconsideration of the Commissioner's decision.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

[3] *Burge v. Fidelity Bond and Mortgage Co.*, 648 A.2d 414, 420 (Del. 1994).
[4] Id. at 419.
[5] Id.