NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

1726 SOUTH 5TH STREET ASSOCIATE LLC	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
Appellant	:	
v.	:	
	:	No. 1174 EDA 2025
NIQUISHA A/K/A NIKESHA CLOSS, KNOWN HEIR OF MILDRED CLAUS A/K/A MILDRED CLOSS, TISEAKA A/K/A TISHICKA CLOSS, KNOWN HEIR OF MILDRED CLAUS A/K/A MILDRED CLOSS, UNKNOWN HEIRS, SUCCESSORS AND ASSIGNS, AND ALL PERSONS, FIRMS AND ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER DONNELL CLAUS A/K/A WILLIE DONNELL CLOSS, RUDY CLAUS A/K/A RUDY CLOSS, CAROLYN CLAUS A/K/A CAROLYN CLOSS, ESTHER CLAUS A/K/A ESTHER CLOSS, RICHARD LEE CLAUS A/K/A RICHARD LEE CLOSS, EARL CLAUS A/K/A JOHN EARL CLOSS, ROXANNA CLOSS, KNOWN HEIR OF WILLIAM CLAUS, JR. A/K/A WILLIAM CLOSS, AND LILLIE CLOSS-JONES, KNOWN HEIR OF WILLIAM CLAUS, JR. A/K/A WILLIAM CLOSS.	:	

Appeal from the Judgment Entered July 25, 2025
In the Court of Common Pleas of Philadelphia County Civil Division at No(s): 210200878

1726 SOUTH 5TH STREET ASSOCIATE LLC	:	IN THE SUPERIOR COURT OF PENNSYLVANIA
Appellant	:	
v.	:	

	:	
	:	No. 2205 EDA 2025
NIQUISHA A/K/A NIKESHA CLOSS, KNOWN HEIR OF MILDRED CLAUS A/K/A MILDRED CLOSS, TISEAKA A/K/A TISHICKA CLOSS, KNOWN HEIR OF MILDRED CLAUS A/K/A MILDRED CLOSS, UNKNOWN HEIRS, SUCCESSORS AND ASSIGNS, AND ALL PERSONS, FIRMS AND ASSOCIATIONS CLAIMING RIGHT, TITLE OR INTEREST FROM OR UNDER DONNELL CLAUS A/K/A WILLIE DONNELL CLOSS, RUDY CLAUS A/K/A RUDY CLOSS, CAROLYN CLAUS A/K/A CAROLYN CLOSS, ESTHER CLAUS A/K/A ESTHER CLOSS, RICHARD LEE CLAUS A/K/A RICHARD LEE CLOSS, EARL CLAUS A/K/A JOHN EARL CLOSS, ROXANNA CLOSS, KNOWN HEIR OF WILLIAM CLAUS, JR. A/K/A WILLIAM CLOSS, AND LILLIE CLOSS-JONES, KNOWN HEIR OF WILLIAM CLAUS, JR. A/K/A WILLIAM CLOSS.	:	

Appeal from the Judgment Entered July 25, 2025
In the Court of Common Pleas of Philadelphia County Civil Division at No(s): 210200878

BEFORE: LAZARUS, P.J., BECK, J., and NEUMAN, J.

MEMORANDUM BY BECK, J.: **FILED NOVEMBER 18, 2026**

Appellant 1726 South 5th Street Associate LLC ("the LLC") appeals from the judgment entered on July 25, 2025, by the Philadelphia County Court of Common Pleas ("trial court") in favor of Appellee Carolyn Claus a/k/a Carolyn Closs ("Closs") and against the LLC for possession of property located at 1217 North 15th Street in Philadelphia ("the Property"). The LLC raises the timeliness of Closs' challenge to an underlying sheriff's sale of the Property

and further claims the trial court erred in proceeding to trial at a hearing that was scheduled for oral argument, depriving the LLC of its right to produce testimony and evidence. For the reasons that follow, we vacate the judgment and remand for proceedings consistent with this decision.

The Property is a vacant lot in the City of Philadelphia ("City"), which the LLC purchased for $84,000 on December 15, 2015, at a sale by the Philadelphia Sheriff's Office on account of unpaid real estate taxes.[1] By way of background, when John L. Davis died in 1983, he left the Property to his brother and numerous nephews, nieces, grandnephews, and grandnieces. At the time of the sheriff's sale, there were 24 record owners of the Property who each held an interest ranging from 14.69% to 0.37%. Closs was one of 8 owners with a 0.37% interest.[2] None of the 0.37% owners were named as a party to the sheriff's sale action.

On February 9, 2021, the LLC filed a complaint in quiet title against the 0.37% owners, seeking to clear title to the Property for resale. None of the defendants, except Closs, responded. Closs filed a counseled answer, new

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[1] Taxes had not been paid on the Property since 1987. N.T., 1/15/2025, Ex. P-1 (Petition for Rule to Show Cause Why the Property Should Not Be Sold Free and Clear of All Claims, Liens, Mortgages, Ground Rents, Charges and Estates). The underlying sheriff's sale action is docketed at No. 1410T0646.

[2] The deed dated June 30, 1986, and recorded July 31, 1986, names the 0.37% owners as Mildred Claus, Donnell Claus, Rudy Claus, Carolyn Claus, Esther Claus, Richard Lee Claus, Earl Claus, and William Claus, Jr. ***See*** Complaint, 2/9/2021, Ex. B. The surnames appear as both "Claus" and "Closs" in the certified record.

matter, and counterclaim on September 30, 2022. In her new matter, Closs averred that because she never received notice of the sheriff's sale action and was not joined as a party, her interest in the Property was not divested at the sheriff's sale. She counterclaimed that the sheriff's sale action was fatally flawed because the City failed to identify all owners of the Property; the LLC negligently and recklessly relied on the actions of the City in purchasing the Property at the sheriff's sale; the failure to notify and join her as a party to the sheriff's sale action prevented her from exercising her ownership rights to the Property and did not divest her interest in it; and the LLC had, through its attorney, denied her claim to the Property. Closs sought dismissal of the complaint with prejudice, grant of her counterclaim, and conveyance of the Property to her and the other defendants.

In its answer to the counterclaim, the LLC averred that Closs would be unjustly enriched if she were granted relief because she had only a 0.37% interest in the Property, yet the LLC paid $84,000.00 to satisfy delinquent taxes on the Property. The LLC further asserted that it has continued to pay taxes, insurance, and water/sewage charges, and has maintained exclusive possession and control of the Property since the sheriff's sale.

On November 16, 2022, the trial court entered default judgment against the non-answering defendants.[3] On March 30, 2023, the LLC moved for summary judgment, seeking to compel Closs to cancel or surrender her

[3] The judgment forever barred the non-answering defendants from asserting any right, lien, title, or interest to the Property.

interest in the Property to the LLC based on its claim of superior title, which the trial court denied on July 25, 2023.

Before a pretrial settlement conference scheduled for September 11, 2024, the trial court granted a motion to withdraw as counsel filed by Closs' attorney. Closs then filed a pro se motion seeking court-appointed counsel, in which she claimed, inter alia, that she was on active military duty when the underlying sheriff's sale took place on December 15, 2015.[4] She attached a pretrial settlement conference memorandum in which she claimed relief under the Servicemembers Civil Relief Act ("SCRA"), 50 U.S.C. §§ 3901-4043.[5]

On October 22, 2024, Closs filed a motion to dismiss in which she asserted that genuine issues of fact existed, the SCRA applied, and the City's failure to notify her of the sheriff's sale action violated her right to take possession of the Property while she was on active military service.

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[4] The trial court denied Closs' request for court-appointed counsel and her subsequent motion for reconsideration. Closs has appeared pro se since then.

[5] The stated purposes of SCRA are:

> **(1)** to provide for, strengthen, and expedite the national defense through protection extended by this chapter to servicemembers of the United States to enable such persons to devote their entire energy to the defense needs of the Nation; and
>
> **(2)** to provide for the temporary suspension of judicial and administrative proceedings and transactions that may adversely affect the civil rights of servicemembers during their military service.

50 U.S.C. § 3902.

The trial court scheduled a bench trial on November 4, 2024, but it did not proceed with trial that date.[6]

On November 7, 2024, the LLC responded to Closs' motion to dismiss, asserting, inter alia, that the SCRA was inapplicable and, even if Closs had paid the delinquent taxes on the Property due at the time of the sheriff's sale, she would still only have a 0.37% ownership interest in the Property. The trial court denied Closs' motion to dismiss on November 18, 2024.

On December 4, 2024, the LLC filed a trial brief in which it argued it has superior title to Closs and that her counterclaim challenging the sheriff's sale action was untimely filed beyond the six-year statute of limitations period set forth in 42 Pa.C.S. § 5527(b). Closs filed a trial brief on January 3, 2025, in which she reiterated her request that the sale of the Property be "reversed." That same date, Closs filed a joinder complaint against the City, asserting the City's tax division failed to notify her of the existence of the Property; the City failed to notify her of the sheriff's sale; and unspecified allegations of illegal activity and mismanagement by the City's Sheriff's Office. She sought a "reversal" of the Property's sale "to allow the rightful Heir to claim possession." There is no indication in the certified record that the City responded to the joinder complaint.

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[6] According to the LLC, it appeared and was ready for trial on November 4, 2024, but following an in-chambers conference, the trial court "decided that trial could not proceed as scheduled on November 4[] and directed the parties to file briefs." Plaintiff's Motion for Reconsideration of the Court's Order Dated March 12, 2025, 3/21/2025, ¶ 2.

The trial court scheduled a proceeding on January 15, 2025, which it listed as "oral argument." Closs and counsel for the LLC appeared before the trial court on that date. At the start of the proceeding, the trial court asked counsel for the LLC the reason for the proceeding, to which counsel responded: "Your Honor had scheduled oral argument. We did not have a motion pending, but I think at this point, the most appropriate thing would be for myself to make an oral motion for judgment in quiet title pursuant to Pennsylvania Rule of Civil Procedure 1066." N.T., 1/15/2025, at 3. Counsel for the LLC argued that Closs' counterclaim to set aside the sale of the Property was untimely filed beyond the statute of limitations; the LLC, as owner with a 99.63% interest, has superior title to the Property; and Closs' joinder complaint, filed at the late stage of litigation, was highly prejudicial to the LLC.[7] Closs argued that the City could have located her through an internet search; had she received notice, she would have paid the delinquent taxes on the Property; and the SCRA applied to her. The trial court questioned both counsel for the LLC and Closs and marked several exhibits[8] before eventually swearing Closs in. ***See id.*** at 30. Once sworn, the trial court continued to

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[7] Closs' joinder complaint was filed beyond the period prescribed by Rule 2253(a) of our Rules of Civil Procedure and the certified record does not contain a trial court order permitting the late joinder. ***See*** Pa.R.Civ.P. 2253(a).

[8] The record does not reflect the trial court admitted the exhibits at the proceeding, but the exhibit list signed by the trial court and filed on January 15, 2025, shows all exhibits were admitted.

question Closs before denying the LLC's oral motion and finding in favor of Closs. ***Id.*** at 44.

Following the proceeding, the trial court entered an order on March 13, 2025, granting possession of the Property to Closs and denying the LCC's quiet title claim. The order did not address the claims in Closs' joinder complaint. The LLC filed a timely post-trial motion[9] on March 21, 2025, requesting a new trial and arguing that a due process violation occurred because the January 15, 2025 proceeding was listed for oral argument, not trial, and in any event, Closs' counterclaim was filed beyond the statute of limitations.[10] It attached to its motion a copy of email correspondence with the trial court stating the LLC did not need to appear at oral argument.[11] Closs opposed the motion and the trial court subsequently denied it on April 7, 2025.

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[9] The LLC captioned its motion as a "motion for reconsideration." "However, a motion captioned as a motion for reconsideration that is filed within the ten-day period set forth in Pa.R.C[iv].P. 227.1(c) and seeks to modify the trial court's decision may be treated as a timely-filed post-trial motion." ***Barrett v. M&B Med. Billing, Inc.***, 291 A.3d 371, 374 n.2 (Pa. Super. 2022) (citation omitted).

[10] On that same date, the LLC also filed a motion to recuse the trial judge who presided over the January 15, 2025 proceeding, which Closs opposed and the trial court subsequently denied.

[11] Counsel for the LLC emailed an apparent trial court employee, copied Closs on the correspondence, and asked for confirmation that the LLC's principal was not required to attend, to which the court employee responded: "You do not need to have your client come in." Plaintiff's Motion for Consideration of the Court's Order Dated March 12, 2025, Ex. C.

The LLC appealed from the order denying its motion for reconsideration, which this Court docketed at 1174 EDA 2025. On June 20, 2025, this Court issued an order directing the LLC to show cause as to why the appeal should not be quashed or dismissed where the trial court's March 13, 2025 order did not address the claims in Closs' joinder complaint. In its response, the LLC agreed the trial court's order was not a final order but argued it was appealable pursuant to Rule 311(a)(2) of our Rules of Appellate Procedure.[12]

On July 23, 2025, this Court directed the LLC to praecipe the trial court prothonotary to enter judgment because it had not yet been entered in the trial court; we stated that upon compliance, we would treat the appeal as filed after the entry of judgment. ***See*** Pa.R.A.P. 905(a)(5) (stating that "[a] notice of appeal filed after the announcement of a determination but before the entry of an appealable order shall be treated as filed after such entry and on the day thereof"). After the trial court entered judgment in favor of Closs and

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[12] Rule 311(a)(2) provides:

> An appeal may be taken as of right and without reference to Pa.R.A.P. 341(c) from the following types of orders:
>
> * * *
>
> (2) *Attachments, etc.* An order confirming, modifying, dissolving, or refusing to confirm, modify or dissolve an attachment, custodianship, receivership, or similar matter affecting the possession or control of property, except for orders pursuant to 23 Pa.C.S. §§ 3323(f), 3505(a).

Pa.R.A.P. 311(a)(2). We discuss the issue of appealability infra.

against the LLC on July 25, 2025, this Court discharged its show-cause orders and corrected the case caption to reflect that the appeal was taken from the judgment entered July 25, 2025.

Thereafter, however, the LLC filed a second notice of appeal from the judgment entered on July 25, 2025, which this Court docketed at 2205 EDA 2025. This Court issued a show-cause order as to why the second appeal should not be dismissed as duplicative. In its response, the LLC contended that the appeals should be consolidated pursuant to Rule 513 of our Rules of Appellate Procedure.[13] This Court consolidated the appeals on November 17, 2025.

On appeal, the LLC asks us to review the following questions:

> A. Did the [trial c]ourt err in finding for [] Closs where she did not challenge the tax sale that preceded this matter until more than six years after the tax sale occurred on December 15, 2015 and the [t]ax [s]ale [d]eed was recorded on February 19, 2016, where her separation from the military ended on June 30, 2016, and where [] Closs' first challenge to the tax sale was in her [c]ounterclaim filed on September 30, 2022, and thus such challenge is untimely and prohibited under 42 Pa.C.S. § 5527(b) because it was raised over six years after the statutory period to raise a challenge to same?
>
> B. Did the [trial c]ourt err in issuing findings of fact after a proceeding that was scheduled as oral argument, not a trial, where the Judge's chambers confirmed in writing via email on January 14, 2025, the day before oral argument, that the [LLC] did not need to appear at the oral argument scheduled

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[13] ***See*** Pa.R.A.P. 513 (providing that when multiple appeals arise from the same order or present the same question, an appellate court may order them argued together as a single appeal and parties may stipulate to consolidation).

> for the following day, thus depriving the [LLC] of [its] right to testify and to produce evidence to support [its] claims?

The LLC's Brief at 2-3 (questions reordered for ease of disposition; suggested answers omitted).

Jurisdiction

Before we address the merits of the claims raised, we must determine whether these appeals are properly before us. "We have long held that the question of appealability of an order goes to the appellate court's jurisdiction[.]" ***Whittaker v. Lu***, 323 A.3d 871, 874 (Pa. Super. 2024) (quotation marks and citation omitted). "We may raise issues concerning our appellate jurisdiction sua sponte." ***Id.*** (quotation marks and citation omitted). "Jurisdiction is a question of law; the appellate standard of review is de novo, and the scope of review is plenary." ***Id.*** (quotation marks and citation omitted).

"This Court's appellate jurisdiction extends to (1) a final order or an order certified by the trial court as a final order; (2) an interlocutory order as of right; (3) an interlocutory order by permission; (4) or a collateral order." ***Id.*** at 874-75 (citations and quotation marks omitted). A final order disposes of all claims and all parties. Pa.R.A.P. 341(b)(1).

As stated above, Closs filed a joinder complaint challenging the City's failure to notify her of the sheriff's sale, which has not been addressed or disposed of by the trial court. Our Supreme Court has long held, however, that such permissive joinders of defendants "remain independent to the same

extent as if separate suits had been brought but consolidated for trial[.]" ***Gen. Elec. Credit Corp. v. Aetna Cas. & Sur. Co.***, 263 A.2d 448, 452 (Pa. 1970) (citation omitted). The claims against a joined defendant "remain[] distinct and must be separately determined," with separate judgments "entered in accord with the separate verdicts." ***Id.*** (citations omitted).

The quiet title complaint filed by the LLC has been finally decided and judgment has been entered thereon. As such, we proceed to address the merits of the claims raised by the LCC.

Timeliness of Closs' Claim

The LLC argues that Closs was not entitled to possession of the Property because she failed to challenge the underlying sheriff's sale within the six-year statute of limitations period set forth in section 5527(b) of the Judicial Code, 42 Pa.C.S. § 5527(b). The LLC's Brief at 19-21. It further contends that her challenge was untimely even if the tolling protections of the SCRA apply to Closs based upon the length of time between her completion of her military service and her filing the counterclaim challenging the sheriff's sale. ***Id.***

"Issues involving the interpretation of a statute of limitations are questions of law for which our standard of review is de novo and our scope of review is plenary." ***Erie Ins. Exch. v. Bristol***, 174 A.3d 578, 585 n.13 (Pa. 2017) (citation omitted). We begin by noting the following general principles:

> The purpose of a quiet title action is to settle competing claims to interests in property or to determine right or title or the validity of any deed affecting any interest in land.

* * *

> A quiet title action is the appropriate forum for testing the validity of titles obtained at tax sales. Former owners may use a quiet title action to attack defects in tax sales that would invalidate the deed by which they lost title, and purchasers at tax sales can file such an action to clear or confirm the deed by which they obtained title. Despite a presumption of good title in the possessor of a tax deed, the presumption falls when the regularity of the deed is questioned.

Cornwall Mountain Invs., L.P. v. Thomas E. Proctor Heirs Tr., 158 A.3d 148, 160 (Pa. Super. 2017) (citations omitted); ***see also*** Pa.R.Civ.P. 1061 (relating to quiet title actions).

At the January 15, 2025 proceeding, the LLC argued, inter alia, that Closs failed to timely challenge the underlying sheriff's sale. ***See*** N.T., 1/15/2025, at 10-11. The trial court did not make any explicit findings of fact or conclusions of law regarding the timeliness of Closs' claim to the Property. At close of the proceeding, the trial court stated, in relevant part, the following:

> Unless the plaintiff can prove otherwise, [] Closs has testified that she was on active duty. First of all, she didn't retire or separate until 2016. So the [P]roperty was sold in 2015, a year before she left the military. So clearly she was still on duty even by both parties' testimony.[14]

* * *

> I understand what the state's deadline or the state's statute of responding, but there's always extenuating circumstances, one

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[14] Both parties did not testify; Closs was the only witness, and she was not sworn in until the proceeding was well underway.

> of them being an individual like [] Closs who was on active duty. So [the LLC's] motion is denied. So that's my ruling.
>
> However, posturally [sic], this case was assigned to this [trial c]ourt – was it a bench trial or a jury trial?
>
> [PLAINTIFF'S COUNSEL]: Bench trial.
>
> THE COURT: So that's my finding. [The LLC] made an oral motion, but my finding then in this case is that I'm finding in favor of the defense in this case and – by effect, I'm denying the plaintiff's motion.
>
> [CLOSS]: Your Honor, what about the joinder complaint with the [C]ity?
>
> THE COURT: The problem is that's not before me. You filed that. I guess that will be heard – let me back up. I don't know. Let me be totally honest. This [trial c]ourt was only hearing the petition in the complaint by the [LLC]. I don't know, [] Closs, that your – I guess you have two choices. One, you can either withdraw your complaint to try to get whatever relief – I haven't even seen the complaint so I don't even know. I'm not even sure. Since you filed it, I guess it's still going through the system. So you have a right to press your complaint for whatever [relief] that you're seeking in your complaint, but I make no ruling on that one because that wasn't before me.

N.T., 1/15/2025, at 42-45. The trial court subsequently entered an order, which stated in full:

> AND NOW, this 12th day of March, 2025, based on the evidence presented at trial, it is hereby ORDERED and DECREED that this Court finds for Possession of the real property located at 1217 North 15th Street, Philadelphia, PA 19121 is entered in favor of the Defendant, Carolyn Rose Closs, and against the Plaintiff, 1726 South 5th Street Association.

Trial Court Order, 3/13/2025 (emphasis omitted).

As to the LLC's claim of error regarding the timeliness of Closs' challenge to the sheriff's sale, the trial court stated in its opinion the following:

> Per Section [] 5527(b) "any civil action or proceeding which is neither subject to another limitation specified in this subchapter nor excluded from the application of a period of limitation by section 5531 (relating to no limitation) must be commenced within six years." 42 Pa.C.S. § 5527(b).
>
> [The LLC] erroneously claims [Closs] lost her interest in the [P]roperty because she failed to resolve the outstanding tax issues on the [P]roperty.
>
> However, [Closs] was on active duty in the military at the time of the purported tax sale of the [P]roperty by the City of Philadelphia.
>
> That is undisputed.
>
> Thus, [Closs'] property interest is protected by the [SCRA]. Further, she was not served by the appropriate parties regarding this matter despite being highly reachable.
>
> The SCRA, specifically 50 U.S.C.[] § 3936(a), asserts:
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> > The period of a servicemember's military service may not be included in computing any period limited by law, regulation, or order for the bringing of any action or proceeding in a court, or in any board, bureau, commission, department, or other agency of a State (or political subdivision of a State) or the United States by or against the servicemember or the servicemember's heirs, executors, administrators, or assigns.
>
> 50 U.S.C.[] § 3936 (a).
>
> In the instant case, the statute protects [Closs'] property interest due to her active-duty status.
>
> Simply put, the SCRA prevented [Closs'] property interest in the house[15] [sic] while she was on active-duty status.

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[15] The parties agree that the Property was a vacant lot, which is confirmed by a photograph of the Property contained in the certified record. Complaint, *(Footnote Continued Next Page)*

> Therefore, the trial court did not err in denying the [LLC's] petition to quiet title in this case.

Trial Court Opinion, 12/5/2025, at 7-8 (some formatting altered).

The record reflects that the Property was sold at a sheriff's sale pursuant to the Municipal Claims and Tax Liens Act ("MCTLA").[16] The City filed a petition for a rule to show cause why the Property should not be sold free and clear of all "tax and municipal claims, liens, mortgages, ground rents, charges and estates" pursuant to section 7283(a) of the MCTLA, and the court subsequently issued a decree authorizing the sale of the Property at a sheriff's sale.[17] ***See*** 53 P.S. § 7283(a); N.T., 1/15/2025, Ex. P-1.

The MCTLA "provides for a specific, detailed and exclusive procedure that must be followed to challenge or collect on a municipal lien" in the City. ***City of Philadelphia v. Manu***, 76 A.3d 601, 604 (Pa. Cmwlth. 2013) (citation omitted).[18] Because the sale was conducted pursuant to the MCTLA, the

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2/9/2021, ¶ 15; Answer, 9/30/2022, ¶ 15; Affidavit of Service, 3/29/2022, at 2 (unpaginated). There is nothing in the certified record to indicate that there was a house on the Property.

[16] Act of May 16, 1923, P.L. 207, 53 P.S. §§ 7101-7505 (as amended).

[17] Section 7283(a) of the MCTLA provides the procedure, in relevant part, for free-and-clear sales in Philadelphia. ***See*** 53 P.S. § 7283(a).

[18] "While this Court is not bound by decisions of the Commonwealth Court, such decisions provide persuasive authority, and we may turn to our colleagues on the Commonwealth Court for guidance when appropriate." ***Norman for Estate of Shearlds v. Temple Univ. Health Sys.***, 208 A.3d

(Footnote Continued Next Page)

statute of limitations period set forth therein under section 7193.3 applies, not section 5527(b) of the Judicial Code as set forth by the trial court and the LLC.

Section 7193.3 of the MCTLA states:

> All parties wishing to contest the validity of any sale conducted pursuant to section 31.2 of this act,[19] including the sufficiency of any notice, and any party claiming to have an interest in the premises which was not discharged by the sale must file a petition seeking to overturn the sale or to establish the interest within three months of the acknowledgment of the deed to the premises by the sheriff.

53 P.S. § 7193.3.

The certified record contains the deed from the sheriff's sale of the Property, which shows the sheriff acknowledged the deed on February 15, 2016. ***See*** N.T., 1/15/2025, Ex. P-3; Complaint, 2/9/2021, Ex. A. Pursuant to section 7193.3, Closs thus had three months, until May 15, 2016, to timely challenge the sheriff's sale. Closs filed her counterclaim in the quiet title action, which was her first filing that challenged the sheriff's sale, on September 30, 2022—over six years after the sheriff's acknowledgement.

We next examine the SCRA's tolling provision to determine whether Closs' challenge may nonetheless be deemed timely. As the trial court observed, the SCRA tolls a statute of limitation during military service. 50

1115, 1120 n.3 (Pa. Super. 2019) (citation, quotation marks, and brackets omitted).

[19] 53 P.S. § 7283.

U.S.C. § 3936(a).[20] The record reflects that Closs' active duty military service ended in June 2016.[21] Therefore, even with the benefit of tolling under the SCRA, the time between Closs' separation from military service in June 2016 and her challenge to the sheriff's sale filed on September 30, 2022 is well beyond the three-month period set forth in section 7193.3 of the MCTLA.

This does not end our analysis, however, as there is a separate jurisdictional question related to the sale of the Property.[22] Closs has

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[20] We note that section 3936(b) provides that "[a] period of military service may not be included in computing any period provided by law for the redemption of real property sold or forfeited to enforce an obligation, tax, or assessment." 50 U.S.C. § 3936(b). We further note that the MCTLA has a redemption provision which, absent exception, "permits delinquent taxpayers in the first and second class counties of Philadelphia and Allegheny to redeem property sold at an upset tax sale by paying the delinquent taxes and other costs within nine months" of the date of acknowledgement of the sheriff's deed. ***Lohr v. Saratoga Partners***, ***L.P.***, 238 A.3d 1198, 1200 (Pa. 2020); 53 P.S. § 7293 (relating to redemption). However, the property must be owner-occupied for at least ninety days prior to the date of the sale; there is no right to redemption of vacant property. 53 P.S. § 7293(c). Accordingly, because the Property is a vacant lot, Closs had no right to redeem the Property and section 3936(b) of the SCRA does not apply to her. To the extent that the trial court found section 3936(b) of the SCRA applicable to Closs, ***see*** Trial Court Opinion, 12/5/2025, at 9, this was error.

[21] The trial court did not make a factual finding as to the date Closs' military service ended. The record reflects that, before she was sworn in at the January 15, 2025 proceeding, Closs stated two military retirement dates: June 16, 2016 and June 21, 2016. N.T., 1/15/2025, at 18, 20. Her DD Form 214 (Certificate of Release or Discharge from Active Duty) was signed on June 21, 2016. Closs' Trial Brief, 1/3/2025, Ex. C.

[22] Because this issue implicates the trial court's jurisdiction, we may raise it sua sponte. ***Page Publ'g, Inc. v. Hemmerich***, 287 A.3d 948, 955 (Pa. Super. 2022) ("Whether a court has subject matter jurisdiction over an action
(Footnote Continued Next Page)

consistently argued that the City failed to serve her with notice of any underlying proceedings related to the Property. The record reflects, and the LLC concedes, that the City failed to name Closs as a party to the sheriff's sale action, despite her name appearing as a record owner on the deed conveyed to the LLC. ***See*** N.T., 1/15/2025, at 19, 37, Exs. P-1, P-3.

The law requires "strict compliance" by the City with the service requirements under the MCTLA. ***Manu***, 76 A.3d at 605 (citation omitted); ***see also*** 53 P.S. § 7193.2(a) (specifying the three types of service required prior to sale). "Proper service of a petition for tax sale and a rule to show cause is a prerequisite to a court acquiring personal jurisdiction over a defendant. Failure to strictly comply with the service requirement deprives the court of jurisdiction to authorize a sheriff's sale." ***Manu***, 76 A.3d at 605 (citations and quotation marks omitted).

In other words, if the City failed to comply with the service requirements under the MCTLA, the court was without jurisdiction to order the Property sold at a sheriff's sale in the first instance, rendering the sale to the LLC void. ***See id.*** at 606 (vacating an order authorizing the City of Philadelphia to sell property pursuant to section 7283 of the MCTLA where the City failed to comply, inter alia, with the MCTLA's service requirements, thereby depriving

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is a fundamental issue of law which may be raised at any time in the course of the proceedings, including by a reviewing court sua sponte.") (quotation marks, emphasis, and citation omitted).

the trial court of jurisdiction to authorize a sheriff's sale). This must be distinguished from the failure of a party to receive notice of the rule to show cause or the sheriff's sale; as long as the City complied with section 7193.2(a), the three-month limitations period applies regardless of whether notice was actually received. ***See*** 53 P.S. § 7193.3; ***see also City of Philadelphia v. Jones***, 221 A.3d 737, 742 (Pa. Cmwlth. 2019) (holding that because the City complied with the service provisions of pursuant to 53 P.S. § 7193.2(a), the petitioner could not raise his claims challenging his failure to receive notice of the sheriff's sale in a petition filed six months after the sale).

It is the City's burden to prove strict compliance with the requirements of the MCTLA. ***Jones***, 221 A.3d at 743. The City, however, did not participate in the proceeding below, and it is not clear on the face of the record whether or not the City complied with the MCTLA. Although the record reflects Closs was not a party to the sheriff's sale action, it does not contain all filings from the underlying action such that we can discern whether the City complied with section 7193.2(a). Accordingly, we are compelled to remand the matter to the trial court for a new trial as to all parties, including the City, to determine the validity of the sheriff's sale of the Property.[23] ***See Cornwall Mountain***

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[23] Because we are remanding the matter for a new trial, for the sake of completeness, we note that the trial court erroneously concluded in its opinion that section 3991 of the SCRA entitled Closs to retain her interest in the Property. ***See*** Trial Court Opinion, 12/5/2025, at 5-6 (citing formerly classified section 561 of the Appendix to Title 50 of the United States Code, *(Footnote Continued Next Page)*

Investments, L.P. v. Thomas E. Proctor Heirs Tr., 158 A.3d 148, 160 (Pa. Super. 2017) (stating that "statutes of limitation and repose do not preclude one from defending a quiet title action on the basis that a tax sale was void, i.e., where there were jurisdictional defects").

Conclusion

Although Closs failed to timely challenge the sheriff's sale conducted pursuant to section 7283 of the MCTLA, her 0.37% interest in the Property may not have been divested if the court lacked jurisdiction to authorize the sheriff's sale. We therefore vacate the judgment entered in favor of Closs and against the LLC and remand the matter to the trial court for a new trial, which includes the City.[24]

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which was transferred to 50 U.S.C. § 3991). Under section 3991, certain property belonging to an active duty servicemember cannot be sold to enforce the collection of a tax or assessment unless a court orders the sale after determining the military service does not materially affect the servicemember's ability to pay. 50 U.S.C. § 3991(b)(1). Although this section protects real property, it must be property occupied for dwelling, professional, business, or agricultural purposes. ***Id.*** § 3991(a)(2). Because the Property is a vacant lot, section 3991 does not apply to Closs. We additionally note that although the trial court stated Closs' interest in the Property was 17%, ***see*** Trial Court Opinion, 12/5/2025, at 6, this appears to be a typographical error as the record is clear her interest was 0.37%. Further, based upon our disposition, we need not address the second claim raised by the LCC on appeal.

[24] On April 13, 2026, Closs filed in this Court an application to dismiss, to which the LLC responded. Decision was deferred to the merits panel by per curiam order dated May 8, 2026. In light of our disposition, we deny Closs' application as moot.

Judgment vacated. Case remanded. Application for Dismissal of Appeal denied as moot. Jurisdiction relinquished.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/18/2026