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IN THE  
COURT OF APPEALS OF INDIANA

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In Re the 2020 Madison County  
Tax Sale

James A. Crowe and Phyllis  
Lynn Crowe,  
*Appellants,*

v.

Savvy IN, LLC,  
*Appellee.*

November 30, 2022

Court of Appeals Case No.  
22A-TP-1113

Appeal from the Madison Circuit  
Court

The Honorable Andrew R.  
Hopper, Judge

Christopher A. Cage, Master  
Commissioner

Trial Court Cause Nos.  
48C03-2112-TP-757

**Brown, Judge.**

[1] Dr. James A. Crowe and Phyllis Lynn Crowe appeal the denial of their motion for relief from judgment following the trial court’s order to issue tax deeds. We reverse and remand.

### *Facts and Procedural History*

[2] The Crowes acquired three parcels of real property consisting of approximately eighty-two acres in Madison County by warranty deed in 1997, built a home on the property, and have resided there since 1998. The property’s fair market value is approximately \$2.1 million. On October 5, 2020, Savvy IN, LLC, (“Savvy”) purchased the parcels at a tax sale for \$394,994.<sup>1</sup> On December 7, 2021, Savvy filed petitions for orders directing the issuance of tax deeds. The petitions stated that Savvy mailed notice of the tax sale to the Crowes pursuant to Ind. Code § 6-1.1-25-4.5 by certified mail, return receipt requested, on or about February 10, 2021, a copy of the return receipt was attached, it mailed notice of the filing of the petition for a tax deed to the Crowes pursuant to Ind. Code § 6-1.1-25-4.6 by certified mail, return receipt requested, dated December 7, 2021, a copy of the certified mail return receipt would be filed as a supplement, and it “sent notice of information contained in” Ind. Code §§ 6-1.1-25-4.5 and -4.6 to the Crowes “via regular mail.” Appellants’ Appendix Volume II at 9-10; Appellee’s Appendix Volume II at 13-14, 25-26. The certified mail return receipts attached to Savvy’s filings were not signed by the

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<sup>1</sup> The tax sale certificates state the parcels were sold for \$52,222, \$250,000, and \$92,772.

Crowes.<sup>2</sup> In January 2022, the court ordered the Madison County Auditor to issue tax deeds for the parcels, and tax deeds were subsequently issued.

[3] On February 10, 2022, the Crowes requested relief from judgment pursuant to Ind. Trial Rule 60(B) arguing that they never received notice from Savvy of the tax sale and the redemption period expiration date or that Savvy had filed petitions for tax deeds, the receipts attached to Savvy’s filings show they did not sign the receipts, and they first learned the parcels had been sold at a tax sale when they received a call from their home equity lender on February 1, 2022. They argued any tax deed issued with respect to the parcels was void due to inadequate notice.

[4] On April 8, 2022, the court held a hearing. Dr. Crowe testified as to the property’s fair market value, that he and his wife built a home on and lived on the property, and that they had a home equity loan of approximately \$66,000. He testified that the property had been sold at a tax sale in 2019, that he and Lynn received notices that year informing them the property had been sold and they had a right to redeem the property, and that, in response, Lynn learned the amount they owed and they redeemed the property. He testified, with respect

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<sup>2</sup> A copy of a green “certified mail receipt” attached to the petition displays a stamp of February 10, 2021, and an attached return receipt appears to indicate “2-17” in the field for “Date of Delivery” and “HHR2C79” in the fields for “Signature” and “Received by (Printed Name).” Appellants’ Appendix Volume II at 17, 19; Appellee’s Appendix Volume II at 21, 23, 33, 35. A copy of a green “certified mail receipt” attached to Savvy’s supplemental filing displays a stamp of December 8, 2021, and an attached return receipt appears to indicate “12/13/21” in the field for “Date of Delivery,” there are horizontal lines through the fields for “Signature” and “Received by (Printed Name),” and a scribbled indecipherable word appears in the field for “Is delivery address different than Item 1? If YES, enter delivery address below.” Appellants’ Appendix Volume II at 23, 25; Appellee’s Appendix Volume II at 39, 41, 44, 46.

to the October 5, 2020 tax sale, that they did not receive any notices from Savvy regarding its purchase of the property at the tax sale, their right to redeem the property, or that Savvy had filed petitions for tax deeds. He testified that he and Lynn ultimately obtained copies of the certified mail receipts and his signature did not appear on the receipts. He testified that, if they had received the notices, they would have paid the amount required to redeem the property as they had done previously and that they were ready, willing, and able to pay that amount.

[5] Dr. Crowe further indicated they had trouble receiving mail at their home, his Medicare insurance had been terminated because there were two consecutive quarters for which they did not receive a bill and did not pay, their mailbox had been vandalized on multiple occasions, and their mailbox was approximately three-eighths of a mile from their front door. When asked whether they receive certified mail, return receipt requested, at their residence, he replied affirmatively, and when asked the last time that occurred, he testified “when we got the notification for the prior tax sale” and that, at that time, the mail carrier drove up their lane to deliver it to their house and obtain their signature. Transcript Volume II at 18. When asked “[d]id anyone from any mail carrier bring to you, to your door in 2020 or 2021 any certified mail return receipt requested to your door,” he answered “[n]o.” *Id.* at 18-19. When asked “[d]id any mail carrier come to your door and knock on your door during that period 2020, 2021,” he answered “[n]o,” and when asked “did any mail carrier come to identify you as the recipient of the returned receipt requested mail,” he again

answered “[n]o.” *Id.* at 19. When asked “you did not receive any of these notices,” he answered “[t]hat’s correct.” *Id.* On cross-examination, when asked if the issues with his mail occurred over the prior twenty-three years, he answered affirmatively and that “specifically the issues . . . with my social security and this specific issue was in the last probably two (2) years.” *Id.*

[6] Lynn Crowe testified that, when the property was sold in 2019, she went to the Auditor’s office, found out how much money they owed, went to the bank to obtain the funds, and returned to the Auditor’s office and paid the amount. When asked “[d]id you understand that was going to bring all of your taxes current and not just pay for the redemption amount,” she testified: “That was my understanding.” *Id.* at 25-26. She similarly testified that they did not receive any notices with respect to the 2020 tax sale. When asked “did any mail carrier drive up your lane and knock on your door and talk to you,” she replied “[n]o,” and when asked “[did] any mail carrier identify you and then sign this receipt for you and then tell you he was doing it,” she replied “[n]ot that I’m aware of.” *Id.* at 26. She indicated she has previously received certified mail returned receipt requested at her door, and when asked “[b]ut nothing for this tax sale,” she answered “[t]hat’s correct.” *Id.* She testified that her signature did not appear on any of the certified mail receipts.

[7] When asked if she had anything to add regarding their trouble receiving mail or their mailbox, Lynn testified “[w]ell, we did have [a] medical bill from Riverview [H]ospital that we never got but that was all in the same time period when all of this was going on.” *Id.* at 29. She indicated that no one from the

post office knocked on their door to deliver mail to them during 2020 or 2021 and that no one from the post office came to their door to identify them before delivering mail. When asked “when you had gotten your cashier’s check and you pay the Auditor . . . you thought you had paid your 2019 taxes too,” Lynn answered “[y]es, I did.” *Id.* at 30. When asked “[s]o you weren’t expecting any notices from the Auditor about a tax sale,” she testified: “No. I had asked them if we where [sic] everything was all paid up, all our property taxes had been paid, I was told yes. And I understood that we were all, we didn’t owe anymore property taxes and we didn’t get any statements, any property tax statements that year.” *Id.*

[8] Counsel for the Crowes asked the court to exercise equity in this case and argued “the method used by the mail carrier has reduced the requirements of our tax sale statu[t]es from certified mail return receipt requested notice [to] nothing more than ordinary mail” and “[i]f [a] carrier never receipts the taxpayer, owner, never talks to them, doesn’t get their signature, doesn’t identify them, and then signs a name and a number that is not due process.” *Id.* at 37. The Crowes introduced a “COVID-19 Continuity of Operations Update” by the United States Postal Service (“USPS”) dated March 20, 2020, the court asked the Crowes’ counsel to e-file the exhibit and gave Savvy’s counsel until noon on April 11, 2022, to make any objection, and the chronological case summary shows the Crowes filed the exhibit and Savvy’s counsel did not file an objection. Appellants’ Appendix Volume II at 58. On April 22, 2022, the court denied the Crowes’ motion for relief from judgment.

## *Discussion*

[9] The Crowes argue that the Indiana Supreme Court recognized the public health emergency relating to the coronavirus in an emergency order, USPS altered its signature requirement for certified mail, return receipt requested, in response to the virus, and the mail carrier did not follow the modified customer signature procedure required by USPS. They also argue that, because Lynn received information from the Auditor’s office which led her to believe that all of the outstanding property taxes had been paid, they did not expect to receive further tax notices. They maintain that, under these circumstances, equity must prevent the injustice of losing their home and request thirty days to redeem their property. Savvy asserts that its notices “were signed for” and “[i]t is irrelevant who signed for these certified notices.” Appellee’s Brief at 17-18. It contends it also mailed the notices to the Crowes by first-class mail and argues that USPS’s altered signature requirements for certified mail did not deprive the Crowes of due process.

[10] Ind. Trial Rule 60(B) provides in part that, “[o]n motion and upon such terms as are just the court may relieve a party . . . from a judgment . . . for the following reasons: . . . (6) the judgment is void . . . ,” or “(8) any reason justifying relief from the operation of the judgment, other than those reasons set forth in subparagraphs (1), (2), (3), and (4).” A movant filing a motion for reason (8) must allege a meritorious claim or defense. A motion made under Rule 60(B) is addressed to the equitable discretion of the trial court. *Deutsche Bank Nat. Tr. Co. v. Harris*, 985 N.E.2d 804, 813 (Ind. Ct. App. 2013). We

generally review a court’s ruling on a motion for relief from judgment for an abuse of discretion. *Id.* To the extent a motion for relief from judgment alleges a judgment is void, “discretion on the part of the trial court is not employed because either the judgment is void or it is valid.” *See id.* (citation omitted); *see also Cruz v. Cruz*, 186 N.E.3d 152, 154 (Ind. Ct. App. 2022) (our review of a ruling on a motion under Rule 60(B)(6) is *de novo*).

[11] Ind. Code § 6-1.1-25-4.5 provides that a purchaser is entitled to a tax deed only if the purchaser gives notice of the sale to the owner of record at the time of the sale and any person with a substantial property interest of public record in the real property. The notice must be sent “by certified mail, return receipt requested,” to the property owner at the owner’s last address as indicated in the records of the county auditor. Ind. Code § 6-1.1-25-4.5. “Certified mail” is generally defined as “Mail for which the sender requests proof of delivery in the form of a receipt signed by the addressee” and “The receipt (a green card, which is usu. referred to as such) must be signed before the mail will be delivered. — Also termed *certified mail, return receipt requested.*” BLACK’S LAW DICTIONARY 1096 (10th ed. 2014). Ind. Code § 6-1.1-25-4.6 provides that a purchaser shall file a petition with the trial court requesting the court to direct the county auditor to issue a tax deed if the property was not redeemed from the sale and that notice of the filing of the petition shall be given to the same parties as provided in Ind. Code § 6-1.1-25-4.5. A person may, upon appeal, defeat the title conveyed by a tax deed if the notices required by Ind. Code §§ 6-1.1-25-4.5 and -4.6 were not in substantial compliance with the manner prescribed in those



sections. Ind. Code § 6-1.1-25-16. Further, to comply with due process, while actual notice is not required, a purchaser must provide notice which is reasonably calculated under all the circumstances to inform the interested parties of the pendency of the action and afford them an opportunity to present any objections. *See Ind. Land Tr. Co. v. XL Invest. Props., LLC*, 155 N.E.3d 1177, 1184 (Ind. 2020); *S&C Fin. Grp., LLC v. Khan*, 172 N.E.3d 280, 288 (Ind. Ct. App. 2021), *reh'g denied, trans. denied*. *See also Tax Certificate Invs., Inc. v. Smethers*, 714 N.E.2d 131, 134 (Ind. 1999) (“Notice is constitutionally adequate when ‘the practicalities and peculiarities of the case . . . are reasonably met.’”) (citing *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314-315, 70 S. Ct. 652 (1950)).

[12] On March 16, 2020, the Indiana Supreme Court issued an order providing that Governor Holcomb had declared a public health emergency in Indiana relating to the 2019 coronavirus, President Trump had declared a national emergency, and the Centers for Disease Control and Prevention had determined that social distancing was necessary to minimize further spread of the virus. *See Matter of Admin. Rule 17 Emergency Relief for Indiana Trial Cts. Relating to 2019 Novel Coronavirus (COVID-19)*, No. 20S-CB-123, 141 N.E.3d 388 (Ind. March 16, 2020). USPS issued a “COVID-19 Continuity of Operations Update” in March 2020 providing:

A number of cases of the Coronavirus Disease 2019 (COVID-19) have recently been confirmed across the country.

The safety and well-being of our employees & customers is our highest priority. To help ensure the health of our employees & customers, we are continuing to follow recommended guidance and strategies from the Centers for Disease Control and Prevention (CDC) and local health departments, and are implementing additional measures to help maintain social distancing.

One significant measure being implemented is a temporary modification to mail handling procedures for mail that requires customer signatures. We recognize the close proximity and additional handling that occurs when employees must ask customers for a signature and government issued identification when required. To reduce health risks, we are temporarily modifying customer signature capture procedures. Effective immediately and until further notice, our employees will follow the temporary process below for signature service items. This process applies to all letter carriers:

- Avoid ringing the doorbell when possible. Knock on the customer's door. Avoid areas that may be frequently touched when knocking.
- While maintaining a safe, appropriate distance, employees will request the customer's first initial and last name.
- For increased safety, employees will ask the customer to step back a safe distance or close the screen door/door so that they may leave the item in the mail receptacle or appropriate location by the customer door.
- If there is no response, employees will follow the normal Notice Left process.
- If there are delivery points on the route where social distancing recommendations are difficult to follow, alternative delivery methods can be explored.

Appellants' Appendix Volume II at 58. In addition, the Crowes state that USPS's website provided: "It should be understood that our carriers are not

signing for customers, but instead indicating that they have identified the customer to whom the item is being delivered.” Appellants’ Brief at 18; *see also* Appellee’s Brief at 21 (stating “[t]he altered policies did not eliminate the requirement for signature confirmation; they merely substituted the carrier as the signatory once the recipient’s identity and receipt of the mail had been confirmed”) (citing Appellants’ Brief at 18).

[13] Here, the Crowes presented testimony that they did not receive notice regarding their right to redeem the property following the 2020 tax sale or Savvy’s request for tax deeds and that their signatures did not appear on the certified mail receipts. They further testified that no mail carrier knocked on their door in 2020 or 2021 or identified them as recipients of the return receipt requested mail. We note that the return receipts do not contain the first initial and last name of Dr. Crowe or Lynn and that there was no notation whatsoever relating that a specific individual received the notices. Thus, it appears that USPS protocol, requiring that the postal carrier ask the addressee’s first initial and last name to confirm receipt by the proper recipient, was not followed. The Crowes also testified that they had not received certain mail at their home during the prior two years, they would have redeemed the property if they had received the notices as they had done previously, and they were not expecting any notices because they believed the taxes had been paid and made current when Lynn visited the Auditor and they did not receive any property tax statements. We also note Dr. Crowe’s testimony that the property, which was their residence since 1998, had a fair market value of approximately \$2.1 million and the only

debt was a home equity loan of approximately \$66,000, and the tax sale certificates indicate the parcels sold for \$1.7 million less at \$394,994.

[14] Under these circumstances, equity and due process require that we reverse the denial of the Crowes' motion for relief from judgment and remand to provide them with thirty days to redeem the parcels.

[15] Reversed and remanded.

Altice, J., and Tavitas, J., concur.