MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

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IN THE COURT OF APPEALS OF INDIANA

John R. Mathis, Jr. and
Lisa A. Mathis,[1]
Appellants-Respondents,

v.

JW Property Management, LLC,
Appellee-Petitioner,

and

LaPorte County Auditor,[2]
Appellee-Interested Person.

December 6, 2021

Court of Appeals Case No.
21A-TP-931

Appeal from the
LaPorte Superior Court

The Honorable
Richard R. Stalbrink, Jr., Judge

Trial Court Cause No.
46D02-1911-TP-2594

Molter, Judge.

[1] Appellee JW Property Management, LLC ("JW") purchased Appellant John R. Mathis Jr.'s home at a tax sale, and after JW took possession of the home, Mathis filed a motion to re-enter the home to retrieve personal property he had left behind, including a violin that Mathis claimed was worth $1 million. He argues the trial court abused its discretion by denying his motion on the grounds that JW had no duty to store Mathis's personal property and that Mathis abandoned his personal property. Because the undisputed evidence

[1] Lisa A. Mathis is not participating in this appeal, but since she is a party of record in the trial court, she is a party on appeal. *See* Ind. Appellate Rule 17(A).

[2] The Laporte County Auditor has not filed a brief in this appeal.

established that JW disposed of all of Mathis's personal property, Mathis's request to re-enter the home to retrieve his personal property was moot. And even if it was not moot, the trial court's findings and conclusions supported its decision to deny Mathis's request to re-enter the home. Accordingly, we affirm the trial court.

Facts and Procedural History

[2] Rowley Sheely ("Sheely") and Wendy Sheely own JW. Tr. at 76–78. Their daughter Lisa married John Mathis, and when Lisa and Mathis later divorced, Mathis retained the marital residence. Mathis could not pay the property taxes on the home, so in October of 2018, JW bought the home at a tax sale. Appellant's App. Vol. II at 9.

[3] After the one-year period for Mathis to redeem the home expired, on November 11, 2019, JW initiated this action to obtain the deed and acquire possession of the home by filing a Verified Petition for Order Directing Issuance of Tax Deed ("Verified Petition for Tax Deed"). *Id.* at 9–12. The Verified Petition for Tax Deed asked the trial court, "pursuant to Indiana Code § 6-1.1-25-4.6, to order the LaPorte County Auditor to issue a tax deed to [JW]." *Id.* at 9. The petition alleged that (1) the notices required by Indiana Code sections 6-1.1-25-4.5 and 6-1.1-25-4.6 were served on Mathis; (2) JW had paid "all taxes, special assessments, penalties and costs"; and (3) JW "is entitled to possession of the [home]." *Id.* at 10. On November 13, 2019, JW mailed a letter to Mathis—delivered to Mathis on November 19—that advised him that JW had filed the Verified Petition for Tax Deed. JW's letter included copies of the verified

petition and advised Mathis that a hearing had been scheduled for January 13, 2020. Appellee's App. Vol. 2 at 23–25.

[4] On January 13, 2020, the trial court found JW had complied with all laws related to the issuance of a tax deed and that no one had objected to the issuance of the tax deed, so it granted JW's Verified Petition for Tax Deed. Appellant's App. Vol. II at 13–14. On January 22, 2020, the LaPorte County Auditor issued the tax deed. *Id*. at 89.

[5] On February 5, 2020, JW's counsel mailed a letter to Mathis, providing Mathis with a copy of the tax deed and instructing him to vacate the home by February 29, 2020. *Id*. at 38–41. On February 25, 2020, JW filed a Motion for Writ of Assistance, alleging that it was the legal owner of the home that it was entitled to immediate possession; that Mathis was wrongfully residing at the home; and that the trial court should direct the LaPorte County Sheriff to evict Mathis. *Id*. at 17. The trial court granted the request that same day, and the writ was served on Mathis on February 27, 2020. *Id*. at 21–22, 90–92.

[6] On March 2, 2020—three days after Mathis was served with the writ—JW entered the home to take possession of it. *Id*. at 35; Tr. at 22. Mathis mistakenly believed someone was trying to break into the home, so he called the police. Tr. at 22. When the police arrived, they told Mathis that the writ required him to leave the home, but they allowed him to gather some personal belongings. *Id*. at 23–24, 79; Appellant's App. Vol. II at 35. JW eventually

disposed of all the personal property left behind at the home. Tr. at 79–80, 84–85, 90.

[7] On March 3, 2020, Mathis filed a Motion for Leave to Re-Enter Property to Remove Personal Property ("Motion to Re-Enter JW's Property"). Appellant's App. Vol. II at 28–32. The trial court granted Mathis's motion that day, but after JW objected to Mathis's request, the trial court vacated its ruling. *Id*. at 42. However, it stated that it was open to scheduling a hearing on Mathis's motion if necessary. *Id*.

[8] On March 5, 2020, Mathis's attorney emailed JW's attorney about obtaining Mathis's medication, his clothes, his children's clothes, and the family cat. Tr. at 61; Ex. Vol. at 47. A few days later, Mathis retrieved these items from JW's attorney's office, and while at the office, Mathis asked JW's attorney to retrieve additional medical supplies that belonged to him. Tr. at 62. On March 10, 2020, JW's attorney told Mathis's attorney that the additional medications were available to be retrieved, but Mathis never picked them up. *Id*. During these early March interactions with JW's attorney, neither Mathis nor his attorney told JW's attorney or JW that Mathis had a violin he claimed was worth $1 million, which he still needed to retrieve from JW's property. *Id*. at 11, 81–82.

[9] Five months later, Mathis requested a hearing on his Motion to Re-Enter JW's Property, which the trial court granted, setting a hearing for late September 2020. *Id*. at 54–56. A few days before the hearing, JW's attorney learned for the first time that Mathis claimed he owned a violin worth $1 million that was

at JW's home. Tr. at 10. At the hearing, Mathis testified about the violin, an expensive violin bow, important business records, and other personal belongings—items he valued collectively at $1.2 million—that were allegedly still at the home when Mathis was evicted from JW's property. *Id.* at 23–28, 59, 100.

[10] Testifying on behalf of JW, Sheely testified that (1) he learned only recently that Mathis claimed the violin was left in the home; (2) there was no violin or violin bow at the home; (3) the personal property at the home on the date Mathis was evicted was of little value; and (4) Sheely had disposed of all the personal property at the home—"everything was disposed of." *Id.* at 79–81, 103.

[11] On April 21, 2021, the trial court denied Mathis's Motion to Re-Enter JW's Property. It found (1) Mathis had not identified any authority imposing a duty on JW to preserve Mathis's personal property that he left behind in the home; (2) Mathis had pointed to law imposing such a duty on landlords and bailees, but he did not identify any authority imposing those duties on home purchasers through tax sales; (3) JW's testimony was more credible than Mathis's testimony; (4) Mathis had plenty of time to retrieve his personal property before the writ of assistance was executed; and (5) the property Mathis wished to retrieve—*e.g.*, the violin—was not in the home when JW took possession. Appellant's App. Vol. II at 59–63. Mathis now appeals.

Discussion and Decision

[12] Mathis claims that the trial court abused its discretion in denying his Motion to Re-Enter JW's Property. An abuse of discretion occurs when a ruling is clearly against the logic and effect of the facts and circumstances before the court, including any reasonable inferences drawn from that evidence. *Priore v. Priore*, 65 N.E.3d 1065, 1072 (Ind. Ct. App. 2016), *trans. denied*.

[13] JW successfully sought a tax deed, and Mathis does not appeal that decision. Notably, this appeal does not involve a lawsuit seeking remedies for conversion or replevin, nor does it seek review of an order declining to hold a party in contempt. Instead, Mathis appeals only the trial court's order denying his request for an order to return to his former home to retrieve his personal property. *See, e.g.*, Tr. at 10 ("We simply want an opportunity to go in and get the stuff which is—some of it is of great value."); *id*. at 14 ("I mean, really we're looking for an order to give us an opportunity to inspect any property they're holding in warehouse and then come back to court in regards to damage or loss of property."); *id*. at 46 ("Q: [Mathis], as you sit here today, is it your request to the Court that you be given an opportunity to inventory anything that [JW] is still holding onto or your ex in-laws? A: Yes, absolutely."). We decline to reverse that order for two reasons.

[14] First, Mathis's request is moot. *See State ex rel. Ind. State Bar Ass'n v. Northouse*, 848 N.E.2d 668, 673 (Ind. 2006) (an issue is moot when no effective relief can be rendered). The undisputed evidence is that JW no longer has Mathis's

personal property, so a request to reenter the property or take some sort of inventory would not provide Mathis with any relief. *See*, *e.g.*, Tr. at 80 ("We have none—everything was disposed of."); *id*. at 85 ("Q: Okay. And just one more question. Again, you don't have any of Johnny's items still in storage? A: No. We can't afford to store anything, and we wouldn't have done that.").

[15] Second, even if we were to conclude the appeal is not moot, or if we were to construe Mathis's Motion to Re-Enter JW's Property as a replevin action, we still could not say the trial court abused its discretion. The trial court entered findings of fact and conclusions of law, which we review only to determine whether there is any evidence to support the findings, and whether the findings support the conclusions. *See State v. Int'l Bus. Machs. Corp.*, 51 N.E.3d 150, 158 (Ind. 2016). We do not reweigh the evidence. *Id.*

[16] The trial court correctly noted that Mathis has not identified any authority imposing a duty on JW to preserve Mathis's personal property that he left behind in his home. Mathis points to law imposing such a duty on landlords and bailees, but he does not identify any authority imposing those duties on those purchasing real estate through tax sales.

[17] Moreover, even if Mathis had left personal property in the home, the trial court reasonably concluded that Mathis abandoned it by leaving it behind. *Id*. at 62–63. Again, there is plenty of evidence, and there are plenty of reasonable inferences to draw from that evidence, to support the trial court's determination. For instance, four months before he was evicted, Mathis was

aware from JW's November 13, 2019 letter that JW was seeking a tax deed on the home. Appellee's App. Vol. 2 at 23–25. Even if we were to credit Mathis's testimony over JW's testimony, Mathis conceded that about sixty days before he was evicted from the home, he learned about the tax sale, began to pack some of his belongings, and looked for a new home. Tr. at 48–49. By early February, Mathis knew his time to retrieve his personal property was running short because JW's February 5, 2020 letter told Mathis to vacate the home by February 29, 2020, yet Mathis did not retrieve his personal property, and he also failed to do when he was served with the writ of assistance on February 27, 2020. Appellant's App. Vol. II at 21–22, 38–41, 90–92.

[18] After vacating the home, Mathis requested personal property from JW through counsel, and JW returned everything Mathis requested. But Mathis did not include in his request the personal property at issue in his motion, including the violin that he now claims is worth $1 million, and he did not even mention the violin for another five months. Thus, the trial court did not abuse its discretion in finding that Mathis abandoned his property.

[19] Accordingly, the evidence supports the trial court's findings of fact and conclusions of law, and the trial court did not abuse its discretion in denying Mathis's Motion to Re-Enter JW's Property.

[20] Affirmed.

Vaidik, J., and May, J., concur.