

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

JUNE 10, 1997

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 96-3709

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT III**

M&I CENTRAL BANK & TRUST,

PLAINTIFF-RESPONDENT,

V.

**ESTATE OF HAROLD E. BACH, BY ITS PERSONAL
REPRESENTATIVE, ALFRED BROCK, AND DANIEL BACH
AND KATHY BACH,**

DEFENDANTS-RESPONDENTS,

DONALD SCHNITZLER,

INTERESTED PARTY-APPELLANT.

APPEAL from an order of the circuit court for Marathon County:
RAYMOND F. THUMS, Judge. *Affirmed.*

Before Cane, P.J., LaRocque and Myse, JJ.

PER CURIAM. Donald Schnitzler, the successful bidder at a mortgage foreclosure sheriff's sale, appeals a trial court order that accepted the landowner's postsale redemption of the real estate, declined to confirm the sheriff's sale, satisfied the underlying foreclosure judgment, and dismissed the mortgage foreclosure proceedings. In essence, Schnitzler argues that the trial court had no power to permit redemption after the sheriff's sale's completion. In Schnitzler's view, the mortgage foreclosure statutes bar postsale redemption and limit the supervising court's power to measuring the economic adequacy of the successful bid. He states that sheriff's sale bidders acquire superior interests in the real estate that defeat all mortgagors' attempts at postsale, preconfirmation redemption. We reject these arguments and therefore affirm the trial court's order.

The mortgage foreclosure code does not expressly define mortgagors' postsale, preconfirmation redemption rights. See §§ 846.13 and 846.17, STATS. Nonetheless, Wisconsin case law clearly defines those rights. Under similar statutory provisions, the Wisconsin Supreme Court has held that mortgagees may redeem their foreclosed real estate at any time before the sale's confirmation. See *Gerhardt v. Ellis*, 134 Wis. 191, 196, 114 N.W. 495, 496 (1908). Before confirmation, sheriff's sale purchasers have nothing more than the rights of mortgagees. See *Allen v. Elderkin*, 62 Wis. 627, 631, 22 N.W. 842, 844 (1885). We see nothing in the current mortgage foreclosure code that alters these long-standing rules; the *Gerhardt* and *Allen* cases dealt with the comparable statutory provisions of the day. Last, we reject Schnitzler's claim that the trial court had no evidence of redemption; the mortgagee stipulated to the redemption tender in open court. In sum, the trial court correctly declined to confirm the sheriff's sale.

By the Court.—Order affirmed.

This opinion will not be published. *See* RULE 809.23(1)(b)5, STATS.

