



Santillán Law Monthly Digest

Property Purchased at Tax Sales Can Be Modified in Chapter 11

A Positive Outcome for Communities facing Blight

by [Edgardo D. Santillán, Esquire](#) on March 3, 2017



Have you purchased property at an Upset Sale simply to discover that it has mortgage or other liens against it? Do you want to purchase a piece of property that is severely underwater? It's not too late to fix novice mistakes and/or to make money on property that no mortal would touch. We can help you make lemonade from "lemons".

Chapter 11 bankruptcy is a process of legally modifying the amount owed on property, as well as, setting a fair repayment terms on debt-ridden property.

Our firm can assist you in protecting your assets/investments by modifying the terms of repayment to lending institutions secured by investment property. The bankruptcy code allows for the reduction of mortgage debt down to the fair market value of investment property, modify the interest rate, and structure a new repayment plan for the debt. For example, you may be able to reamortize a secured loan into monthly payments that are far less than the current loan agreement.

EXAMPLE: Investment Property has a mortgage of \$155,000 with interest of 7% with 25 years remaining = \$1,031.22 /mo. However, the FMV of the property is only \$24,000. We can restructure a reamortized loan at \$24,000 @ 5.0% over 10 years = \$254.56 /mo. Thus, saving the investor \$776.66 / mo. and paying off the loan 15 years sooner.

The United States Bankruptcy Court in the matter of In re RGW Properties of Beaver County, Inc., ___ B.R. ___ (2017), 2017 WL 658233 (Bankr.W.D.Pa. 2017), determined that RGW (investor) had obtained ownership of property through a presumptively valid tax sale. As such, the property ownership was confirmed by State Court and not attacked by the mortgage company in a timely manner under Pennsylvania law. The execution and recording of a deed raised a presumption of validity which placed the burden of proof on any party seeking to challenge the transfer. The Court determined that the investor acted in good faith under Section 1129(b) of the Code by agreeing to pay the FMV of the property within the Plan with appropriate interest pursuant to the United States Supreme Court's decision in *Till v. SCS Credit Corp.*, 541 U.S. 465, 124 S.Ct. 1951, 158 L.Ed.2d 787 (2004). Ultimately, the Court confirmed the investor's Plan which provided for the reamortization of the mortgage at \$24,000 at 5% over 10 years.

Does this sound too good to be true? It's legal and this method is available to the savvy investor. **Our Firm represented RGW and obtained this favorable result.** We work with investors in transactions similar to the above. Call us at **724-770-1040** to discuss your real estate plans and allow us to help maximize your monthly real estate income. We work with investors within the Commonwealth of Pennsylvania.

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