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Sale of Medicaid Recipient's House Was in Her Best Interest

An Ohio appeals court rules that a guardian can sell a Medicaid recipient's house even though the mortgage loan was in default because the mortgage company had not foreclosed on the property and it was in the recipient's best interest to sell the property and retain her Medicaid benefits. *Gasper v. Adkins* (Ohio Ct. App., 10thDist., No. 17AP-294, Sept. 27, 2018).

Christopher Gasper was appointed guardian of Diantha Adkins, who was in a nursing home and receiving Medicaid benefits. Mr. Gasper petitioned the court to sell Ms. Adkins' house. The company that held the mortgage objected to the sale, claiming the mortgage loan was in default.

The court found that the sale of the property was in the best interest of Ms. Adkins and authorized Mr. Gasper to execute a deed in lieu of foreclosure. The mortgage company appealed, arguing that the court couldn't authorize the sale of the property free and clear of the mortgage lien without the mortgage company's consent.

The Ohio Court of Appeals, 10thDistrict, affirms, ruling that the guardian was entitled to sell the property. According to the court, because the mortgage company had not foreclosed on the property, Ms. Adkins was not "divested of legal ownership" at the time Mr. Gasper sought the authority to sell her real estate. The court also holds that it was in Ms. Gasper's best interest to sell the property in order to not jeopardize her Medicaid benefits.

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