

IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE §
PETITION OF JOHN S. SHIPLEY § No. 20, 2009
AND ROCHELLE D. SHIPLEY §
FOR A WRIT OF MANDAMUS §

Submitted: January 15, 2009

Decided: February 13, 2009

Before **STEELE**, Chief Justice, **JACOBS**, and **RIDGELY**, Justices.

ORDER

This 13th day of February 2009, upon consideration of John and Rochelle Shipley's petition for a writ of mandamus and the response and motion to dismiss filed by Carello Development LLC, it appears to the Court that:

(1) On November 17, 2008, the Shipleys filed a notice of appeal in case No. 568, 2008 seeking review of the Superior Court's order denying their motion to set aside the June 10, 2008 sheriff's sale of their former property for nonpayment of taxes. On January 7, 2009, this Court denied the Shipleys' motion for a stay of the execution of judgment pending appeal. Thereafter, on January 14, 2009, the Shipleys filed this writ requesting an emergency review of the Superior Court's holding that the Shipleys had failed to pay property taxes and asking that any attempts to evict them from the property be stopped. On January 15, 2009, Carello Development, as the purchaser of the Shipleys' property, filed an expedited response to the Shipleys' writ reflecting that

the sheriff had granted peaceable possession of the property to Carello that morning. Thus, Carello moved to dismiss the Shipleys' writ as moot.

(2) In the first instance, we note that the Shipleys' filing of this writ was an inappropriate attempt to reargue this Court's denial of their motion to stay the judgment below pending the outcome of their appeal in No. 568, 2008.¹ Moreover, because Carello's possession of the property has been accomplished, the Shipleys' attempt to stay the execution of the writ of possession is moot.

NOW, THEREFORE, IT IS ORDERED that the petition for an extraordinary writ is DISMISSED as moot.

BY THE COURT:

/s/Henry duPont Ridgely
Justice

¹ See Del. Supr. Ct. R. 18 (2009).