NOTICE
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2026 IL App (5th) 250940-U

NO. 5-25-0940

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE
This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

GLOBAL 17, LLC, f/k/a Scandium 21, LLC,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Williamson County.
	)	
v.	)	No. 22-TX-3
	)	
CARLOS TANNER, TANNER 401K PLAN TRUST,	)	Honorable
	)	Jeffrey A. Goffinet,
Defendant-Appellee.	)	Judge, presiding.

JUSTICE BOLLINGER delivered the judgment of the court.
Justices McHaney and Clarke concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court's dismissal of plaintiff's second amended section 2-1401 petition to vacate the order directing issuance of a tax deed is affirmed.

¶ 2 This is the second appeal arising from Carlos Tanner, Tanner 401K Plan Trust's (Tanner) purchase of the delinquent 2018 taxes on Global 17, LLC, f/k/a Scandium 21, LLC's (Global) property and the tax deed that followed. Global's second amended petition under section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401 (West 2018)) sought to vacate the order directing issuance of the tax deed on three grounds: (1) Tanner failed to serve a recorded mortgagee, (2) Tanner procured the deed by fraud or deception, and (3) the deed is void because it was not recorded within one year after the redemption period expired. The circuit court dismissed all three counts, and we affirm.

¶ 3 I. BACKGROUND

¶ 4 Because these parties are before us on appeal for the second time, we draw some background from the first appeal. *Global 17, LLC v. Tanner*, 2026 IL App (5th) 240644-U. On November 5, 2019, at the Williamson County annual public tax sale, Tanner purchased the delinquent real estate taxes on 30 parcels owned by Global. The parcels are contiguous and are located in Stonefort Township, Williamson County, Illinois. On November 27, 2019, the circuit court entered an order approving the tax sale. On January 11, 2022, Tanner filed a petition for the issuance of a tax deed in case No. 22-TX-3.

¶ 5 The initial redemption period was set to expire on November 5, 2021, two years after the date of the public tax sale, unless timely extended pursuant to the Property Tax Code. See 35 ILCS 200/1-1 *et seq.* (West 2020). On January 27, 2022, Tanner filed a "Motion to Extend Redemption Period Instanter," requesting that the court extend the redemption period through October 1, 2022, and asserting, in part:

> "Petitioner, requests that this Court enter the Order Instanter or immediately upon receipt of this Motion as this Court does not have discretion to grant [*sic*] the Motion for Extended Redemption Period. 35 ILCS 200/21-385 states in part, 'the Court shall allow the purchaser or his or her assignee to extend the period or any extended period of redemption, provided that any extension allowed will expire not later than 3 years from the date of sale …' "

The circuit court entered an order granting the extension on February 7, 2022.

¶ 6 On March 8, 2022, the Williamson County State's Attorney's Office, on behalf of the Williamson County Clerk and Williamson County Treasurer, filed a motion to vacate the extension of the redemption period. The motion stated that "in accordance with 35 ILCS 200/21-385, '[t]he

purchaser or his assignee of property sold .. may extend the period of redemption *at any time before the expiration of the original period of redemption …' "* (Emphasis in original.) Accordingly, the motion requested that the circuit court vacate its order granting the extension of the redemption period. On July 26, 2022, Tanner filed a further motion to extend the redemption period to November 4, 2022, which the court granted on August 1, 2022. On August 26, 2022, the circuit court denied Williamson County's motion to vacate the extension of the redemption period. On September 7, 2022, Williamson County filed a motion for leave to withdraw its motion to vacate the extension of the redemption period. The motion stated, "That in light of ongoing discussion with [Tanner]'s attorney, Movant now wishes to withdraw its Motion to Vacate the Extension of Redemption Period." The circuit court granted the motion to withdraw on September 7, 2022.

¶ 7 On November 17, 2022, Tanner filed an application for an order directing the county clerk to issue the tax deed, stating that the redemption period expired on November 4, 2022. An order directing the county clerk to issue a tax deed was entered November 18, 2022.

¶ 8 On August 3, 2023, Global initiated a separate action by filing a complaint to quiet title against Tanner in Williamson County Case No. 23-CH-17. Global's complaint alleged that Tanner had not timely extended the redemption period and that its petition for a tax deed was resultingly untimely. Specifically, Global alleged that the redemption period expired on November 5, 2021, two years after the tax sale on November 5, 2019. Global further alleged that, because Tanner failed to timely obtain and record a tax deed on or before November 5, 2022 (one year after the redemption period expired), the tax deed and sales were "absolutely void with no right to reimbursement" pursuant to the Property Tax Code. On September 29, 2023, Tanner moved to dismiss Global's complaint to quiet title pursuant to section 2-619(a)(5) and (a)(9) of the Code of Civil Procedure (735 ILCS 5/2-619(a)(5), (9) (West 2022)).

¶ 9 On November 6, 2023, in 22-TX-3, Global filed a petition under section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401 (West 2022)) seeking to vacate the order directing the issuance of the tax deed. Global's petition asserted that Tanner violated section 22-85 of the Property Tax Code (35 ILCS 200/22-85 (West 2022)) and committed fraud in connection with the extension of the redemption period and the timely recording of the tax deed.

¶ 10 On February 16, 2024, in 23-CH-17 (quiet title case), the circuit court entered a written order denying Tanner's motion to dismiss. On February 21, 2024, Tanner filed a motion to reconsider. On March 28, 2024, the circuit court granted the motion to reconsider by docket entry and later entered judgment for Tanner. On May 15, 2024, Global appealed. We affirmed, concluding that the circuit court did not err in dismissing Global's complaint to quiet title because a quiet title action was not the appropriate mechanism for challenging the issuance of a tax deed. *Global 17, LLC*, 2026 IL App (5th) 240644-U, ¶ 28.

¶ 11 In the tax matter, Tanner filed a motion to dismiss Global's section 2-1401 petition pursuant to sections 2-615 and 2-619 of the Code of Civil Procedure (735 ILCS 5/2-615, 2-619 (West 2022)). After a hearing on February 16, 2024, the motion was granted, and Global had 14 days to file an amended petition.

¶ 12 On April 30, 2024, Scarlet Eco Solutions (Scarlet) filed a motion to intervene. Scarlet stated that Pablo Reiter held a mortgage and security agreement concerning the subject property and had assigned his interest to Scarlet.

¶ 13 After several extensions, Global filed an amended petition under section 2-1401 seeking to vacate the order directing the issuance of a tax deed. In response, Tanner filed a motion to dismiss the amended section 2-1401 petition and an opposition to the motion to intervene pursuant to sections 2-615 and 2-619. In an order dated September 24, 2024, the circuit court denied the motion

to intervene. Regarding the motion to dismiss the amended section 2-1401 petition, the circuit court noted that it had previously dismissed count II with leave to amend. As to count I, the court stated that, although it had concerns regarding the likelihood of proving the allegations, it was required to accept all well-pleaded facts as true. Accordingly, it denied the motion to dismiss count I. The circuit court dismissed count III and granted Global 21 days to file an amended petition restating count I and amending count II.

¶ 14 After several extensions of time, on April 28, 2025, Global filed its second amended section 2-1401 petition to vacate, asserting three grounds. Count I, brought under section 22-45(4) of the Property Tax Code (35 ILCS 200/22-45(4) (West 2022)), alleged that Reiter held a recorded mortgage interest, was not named in the section 22-20 publication notice (*id.* § 22-20), and was not served with the required notices during the notice-serving period due to Tanner's failure to conduct a diligent inquiry and make a diligent effort to serve him. Count II, brought under section 22-45(3) (*id.* § 22-45(3)), alleged that the tax deed was procured by fraud or deception. This included allegations that Tanner's counsel quoted section 21-385 to the court while omitting its opening clause and failed to disclose that no petition for a tax deed had been filed before the redemption period expired. It also alleged that Tanner made misrepresentations to the State's Attorney regarding the basis for the extension, including a reference to the Governor's COVID-19 disaster proclamation. Count III, brought under section 2-1401(f) and section 22-85, alleged that because the tax deed was not recorded within one year after the redemption period expired—which Global contends occurred on November 5, 2021—the certificates, the deed, and the underlying sale were void.

¶ 15 Tanner filed a motion to dismiss on July 18, 2025, pursuant to sections 2-615 and 2-619. With respect to count I, Tanner asserted that Global lacked standing to set aside the deed based on

the failure to notify another party because Global "indisputably received notice of the tax sale and tax deed and failed to redeem," and was itself named in the publication notice filed on October 4, 2022. Relief under section 22-45(4) is available only to a party not named in the publication notice. Because Global received notice, it was not materially prejudiced by any failure to notify a different party (the Reiter mortgage interest). Alternatively, under section 2-615, Global failed to allege that it was not named in the publication notice—an element of a section 22-45(4) claim—and therefore the count was legally insufficient.

¶ 16 As to count II, Tanner argued that, even assuming the pleaded "false representations" were true, the alleged facts, considered alongside the court record, did not constitute legal fraud. Tanner characterized "fraud" as the common-law tort of fraudulent misrepresentation, which must be pleaded with specificity. He addressed the fraud allegations and contended that none established a false representation, reliance, or injury sufficient to support a fraud claim.

¶ 17 With respect to count III, Tanner argued that it was "identical to Count III of the Amended Petition," which the court dismissed with prejudice on section 2-619 grounds in its September 24, 2024, order. Accordingly, Tanner argued that the claim was barred by that prior order.

¶ 18 Finally, Tanner argued for dismissal pursuant to section 2-619(a)(9). He asserted that Global lacked standing for several reasons. First, Global failed to satisfy the three-part test for relief under section 2-1401, including the requirements to show that, through no fault of its own, it had not presented a valid defense and that it had no reasonable excuse for failing to act earlier, having "sat on its rights" and filing nothing until November 2023. Second, Global lost its legal interest in the property—and therefore its standing—when it failed to redeem the property. Third, Global was not listed on the property's title; Scandium 21, LLC, was. Tanner noted that Scandium asserted it had changed its name to Global, but no name change appeared on the property's title.

¶ 19 Following arguments by counsel on October 3, 2025, the circuit court issued a written ruling on October 21, 2025, dismissing the second amended petition. The court stated that, because its September 24, 2024, order had denied Scarlet's motion to intervene, Scarlet "is not a party to this case and cannot bring any causes of action in the Second Amended Petition." Accordingly, the petition was dismissed with prejudice in its entirety as to Scarlet.

¶ 20 With respect to count I, the circuit court found that (1) Global had been ordered in the September 24, 2024, order to restate count I in its amended petition "but failed to do so here"; and (2) Global "was named in the publication notice and, therefore, Petitioner is not entitled to relief under Section 22-45(4)" of the Property Tax Code. With respect to count II, the circuit court found that Global "failed to allege sufficient facts to state a claim for legal fraud" and adopted the analysis set forth in Tanner's motion to dismiss. Because Global had already been granted leave to amend its fraud claim in the September 24, 2024, order and "again failed to sufficiently state a claim," the claim was dismissed with prejudice and without leave to amend. As to count III, the circuit court found that it had previously been dismissed with prejudice under section 2-619 in the September 24, 2024, order and that it "merely restates Count III from the First Amended Petition." The circuit court therefore dismissed count III with prejudice "on the basis of the Court's prior Order." Global timely filed this appeal.

¶ 21 II. ANALYSIS

¶ 22 On appeal, Global contends that the circuit court erred in dismissing each count. It argues that Reiter was a recorded mortgagee who did not receive any of the required notices; that the alleged conduct satisfies the standard for fraud or deception under section 22-45(3); and that section 22-85 provides an enforceable ground independent of section 22-45 because the deed was

recorded more than one year after the redemption period that, according to Global, expired on November 5, 2021. Global maintains that it has standing to petition despite its failure to redeem.

¶ 23 Tanner responds that section 22-45 provides the exclusive grounds for contesting a tax deed and does not include a section 22-85 timing defect. Tanner asserts that Global, having received notice and been named in the publication notice, cannot obtain relief under section 22-45(4). Tanner argues that the pleaded facts do not establish fraud, particularly because the alleged discrepancy was presented to the circuit court. Tanner contends that the deed was recorded within one year of the extended redemption deadline of November 4, 2022, and therefore is not void under section 22-85. Finally, Tanner asserts that Global lacks standing because it failed to redeem, lost its legal interest in the property, and holds title under a different name.

¶ 24 A motion to dismiss under section 2-615 of the Code of Civil Procedure "challenges the legal sufficiency of a complaint based on defects apparent on its face." *Marshall v. Burger King Corp.*, 222 Ill. 2d 422, 429 (2006). In ruling on the motion, the court accepts as true all well-pleaded facts and the reasonable inferences drawn from them, construing the allegations in the light most favorable to the plaintiff. *Id.* Review of a section 2-615 dismissal is *de novo*. *Id.*

¶ 25 A motion to dismiss under section 2-619 admits the legal sufficiency of the complaint and its well-pleaded facts but asserts affirmative matter outside the pleading that avoids the legal effect of or defeats the claim, permitting the disposition of issues of law and easily proved issues of fact at the outset. *Kedzie & 103rd Currency Exchange, Inc. v. Hodge*, 156 Ill. 2d 112, 115 (1993). Under section 2-619(a)(9), " '[a]ffirmative matter' means some kind of defense 'other than a negation of the essential allegations of the plaintiff's cause of action.' " *Smith v. Waukegan Park District*, 231 Ill. 2d 111, 120-21 (quoting *Hodge*, 156 Ill. 2d at 115). An appeal from a section 2-

619 dismissal is of the same nature as one following a grant of summary judgment, and review is *de novo*. *Hodge*, 156 Ill. 2d at 117.

¶ 26 Because the issues presented turn on the sequence and interlocking requirements of the Property Tax Code, we begin by describing how the process operates. The Illinois Constitution forbids the sale of real property for nonpayment of taxes "without judicial proceedings" and guarantees owners and interested persons a right of redemption and "reasonable notice of the sale and the date of expiration of the period of redemption" (Ill. Const. 1970, art. IX, § 8(a), (e)).

¶ 27 When real estate taxes go delinquent, the county collector obtains a judgment and order of sale against the property and, after publishing notice, conducts the tax sale pursuant to that judgment. 35 ILCS 200/21-190 (West 2018). The sale does not convey title. The successful bidder receives a certificate of purchase, which describes the property, the date of sale, and the taxes, interest, and costs for which it was sold; the certificate is assignable by endorsement, vesting in the assignee all the right and title of the original purchaser. *Id.* § 21-250.

¶ 28 The owner and other interested persons retain the right to redeem by paying the delinquency, with interest and costs, before the redemption period expires—generally within two years,[1] and in some cases one year or six months, from the date of sale. *Id.* § 21-350. The redemption period runs from the date of the tax sale. *Id.* § 22-5. A party who redeems after a petition for tax deed has been filed, but wishes to contest the petition, must redeem "under protest," which constitutes an appearance in the proceeding; failure to appear and defend waives the protest. *Id.* § 21-380.

[1]The redemption period was amended to three years, effective July 10, 2026. However, the period of redemption during the relevant time period of this matter was two years.

¶ 29 The tax sale certificate holder must give two layers of statutory notice before it may obtain a deed. First, within 4 months and 15 days after the sale, it must deliver to the county clerk a "take notice" directed to the party in whose name the taxes were last assessed, which the clerk then mails. *Id.* § 22-5. Second, not less than three nor more than six months before the redemption period expires, it must give notice of the sale and of the expiration date to "the owners, occupants, *** and interested parties, including any mortgagee of record." *Id.* § 22-10. That notice must be published and personally served on resident owners, and must be served on "all other owners and parties interested in the property, if upon diligent inquiry they can be found in the county." *Id.* § 22-15.

¶ 30 Within six but not less than three months before redemption expires, the purchaser files a petition in the circuit court, in the same proceeding in which the judgment and order of sale were entered, asking the court to direct the county clerk to issue a tax deed if the property is not redeemed. *Id.* § 22-30. If the redemption period expires without redemption, the court must find that subsequent taxes and assessments are paid, that "the notices required by law have been given," and that the petitioner has complied with all provisions entitling it to a deed; upon that showing the court enters the order, and it must insist on strict compliance with sections 22-10 through 22-25 (*id.* §§ 22-10 to 22-25). *Id.* § 22-40. The court may thereafter place the grantee in possession. *Id.*

¶ 31 The deed itself issues from the county clerk. The Property Tax Code directs that the deed provisions "be liberally construed so that tax deeds *** convey merchantable title" (*id.* § 22-55) and the deed is *prima facie* evidence of the regularity of the assessment, sale, non-redemption, and grantee status. *Id.* § 22-75. Two provisions supply the finality that makes tax titles marketable, and together they frame this appeal. Section 22-45 makes a tax deed "incontestable except by appeal

from the order of the court directing the county clerk to issue the tax deed," subject only to relief under sections 2-1203 or 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1203, 2-1401 (West 2018)) on four enumerated grounds. 35 ILCS 200/22-45 (West 2018). Section 22-85 provides that unless the certificate holder takes out the deed and records it "within one year from and after the time for redemption expires," the certificate, deed, and underlying sale "shall *** be absolutely void with no right to reimbursement," excluding from that one-year computation any time the holder is prevented from obtaining the deed by a court injunction or order, a court's refusal or inability to act, or the clerk's refusal to execute. *Id.* § 22-85.

¶ 32 Relevant to this appeal, as stated above, once a tax deed issues under section 22-40, it is "incontestable except by appeal from the order of the court directing the county clerk to issue the tax deed," and relief from that order "may be had under Sections 2-1203 or 2-1401 *** in the same manner and to the same extent as may be had under those Sections with respect to final orders and judgments in other proceedings." *Id.* § 22-45. The grounds for section 2-1401 relief are expressly "limited to" four: (1) that the taxes were paid before sale, (2) that the property was exempt, (3) proof by clear and convincing evidence that the deed "had been procured by fraud or deception by the tax purchaser or his or her assignee," and (4) proof by a holder of a recorded ownership or other recorded interest that it was not named in the section 22-20 publication notice and that the purchaser "did not make a diligent inquiry and effort to serve that person or party" with the required notices. *Id.*

¶ 33 A section 2-1401 petition "is considered a new proceeding separate from the proceeding in which the judgment was rendered"; the petitioner "must allege and prove the right to the relief sought as in any other civil action." *In re Application of Lake County Collector*, 279 Ill. App. 3d 133, 138 (1996). The party seeking to set aside the tax deed "bears the burden of proving the

invalidity of the tax deed," and, as a general matter, relief is "predicated on proof *** of a defense or claim that would have precluded entry of judgment in the original action and diligence in both discovering the defense or claim and presenting the petition"; a petition failing either legal or factual sufficiency "should be dismissed." *In re Application of the County Treasurer & ex officio County Collector of Cook County*, 2015 IL App (1st) 133693, ¶ 22 (*TCF Bank*). The Illinois Supreme Court has confirmed that once the time to appeal the section 22-40 order has passed, a challenger "could still seek relief under one of the four limited grounds enumerated for a section 2-1401 petition," but a count that "do[es] not allege any of the grounds listed in section 22-45" is properly dismissed even if construed as a section 2-1401 petition. *In re Application for a Tax Deed*, 2021 IL 126150, ¶¶ 33-34.

¶ 34 A. Count I

¶ 35 The first count was based on section 22-45(4) and alleged that Reiter, a prior mortgage holder, had not received notice. Global argues that Reiter was neither served with notice nor identified as a party in the publication. Global maintains that Reiter's lack of notice violated due process.

¶ 36 Section 22-45(4), by its terms, affords relief only to "a person or party holding a recorded ownership or other recorded interest in the property" who "was not named as a party in the publication notice." 35 ILCS 200/22-45(4) (West 2018). The recorded interest at issue belongs to Reiter, not Global. The circuit court found that Global was named in the publication notice and was served before the deed was issued. A litigant "may only assert its own legal rights and interests and may not base a claim for relief upon the rights of a third party." *In re Application of the County Treasurer & ex officio County Collector*, 2013 IL App (3d) 120999, ¶ 17. Reiter's statutory notice claim could have been pursued, if at all, through his assignee, Scarlet Eco Solutions, LLC. The

circuit court denied Scarlet's motion to intervene for lack of standing, and Scarlet neither obtained party status nor appealed that denial. On the present record, Global has therefore not properly presented Reiter's section 22-45(4) claim, and the circuit court did not err in dismissing this count.

¶ 37 B. Count II

¶ 38 As to count II, Global maintains that its second amended petition sufficiently pleaded factual allegations supporting its fraud claim, identifying 10 separate incidents that it contends constituted fraud. In particular, Global alleges that Tanner's counsel presented the court with a redacted quotation of section 21-385, omitting the controlling opening clause—which requires that a petition for a tax deed be filed before expiration—and failed to disclose that no such petition had been filed before the redemption period lapsed. More specifically, in his section 2-1401 petition, he claimed that Tanner's January 27, 2022, motion to extend the redemption period stated in part: "35 ILCS 200/21-385 states in part, 'the Court shall allow the purchaser or his or her assignee to extend the period or any extended period of redemption, provided that any extension allowed will expire not later than 3 years from the date of sale …' " Global asserts that quoting only this portion of the statute constituted fraud upon the court because it omitted the remainder of the statutory paragraph. Global further alleges that a series of representations were made to the State's Attorney to secure withdrawal of the county's motion to vacate, including the COVID-19 proclamation rationale, the assertion that the prior State's Attorney had agreed to withdraw the motion to vacate, and the statement that an interested party could still appear and challenge the extension.

¶ 39 A section 2-1401 petition may collaterally attack the order where there is " 'proof by clear and convincing evidence that the tax deed had been procured by fraud or deception by the tax purchaser or his or her assignee.' " *TCF Bank*, 2015 IL App (1st) 133693, ¶ 23 (quoting 35 ILCS 200/22-45(3) (West 2012)). The courts have articulated the standard in two ways. Under the

traditional formulation, fraud in a tax-deed proceeding means "a wrongful intent—an act calculated to deceive." (Internal quotation marks omitted.) *Id.* Under a broader formulation, grounded in the due-process concerns attending the governmental taking of private property, " '[t]he failure to inform the court of any facts that might change the court's ruling can amount to fraud for purposes of vacating tax deeds,' " because " '[d]ue process concerns demand a special interpretation of the fraud requirement of section 22-45(3).' " *Id.* (quoting *In re Application of the County Treasurer*, 347 Ill. App. 3d 769, 781, 780 (2004)). The broader standard has an important limit: a misrepresentation that does not actually deceive the court is not a basis to vacate, because where the trial court was already aware of the true facts, the petitioner "ha[s] not raised any issues the trial court was not aware of at the time it entered the order," and "no grounds exist for finding that those facts might change the court's rulings." *Id.* ¶ 27.

¶ 40 1. Tanner's Motion to Extend Redemption Period

¶ 41 The language quoted by Global from Tanner's motion did not constitute fraud under either the broad or the traditional view. First, the full text of section 21-385 was placed squarely before the circuit court: the county's March 8, 2022, motion to vacate the extension quoted the very clause Global contends was omitted, stating that, "in accordance with 35 ILCS 200/21-385, '[t]he purchaser or his assignee of property sold … may extend the period of redemption *at any time before the expiration of the original period of redemption …*' " (Emphasis in original.) The statutory language on which Global's fraud theory depends was thus before the court. Second, a court is presumed to know the law and to apply it properly, absent an affirmative showing to the contrary in the record. *Vance v. Joyner*, 2019 IL App (4th) 190136, ¶ 91 (quoting *Cavitt v. Repel*, 2015 IL App (1st) 133382, ¶ 64). Tanner's motion, moreover, represented on its face that it quoted the statute only "in part," and the complete text was available to the court and the parties. A fact

of which the court was aware, or is presumed to have known, cannot be one "that *** might change the court's rulings." *TCF Bank*, 2015 IL App (1st) 133693, ¶ 27. Global has offered no affirmative showing that the circuit court was unaware of the full statute; its contrary assertion is speculation.

¶ 42 2. Redemption Period Extension

¶ 43 Global asserts that Tanner falsely represented to the circuit court, in its November 17, 2022, application for an order directing the county clerk to issue a tax deed, that the redemption period expired on November 4, 2022. However, the common-law record clearly shows that the circuit court granted the motion to extend the redemption period to November 4, 2022, by docket entry on August 1, 2022. Accordingly, the November 17, 2022, reference to the extended redemption period did not "falsely" represent anything.

¶ 44 3. Strict Compliance With the Property Tax Code

¶ 45 Global asserts that Tanner knew it had not strictly complied with sections 22-10 through 22-25 of the Property Tax Code, and that it failed to disclose this information to the circuit court. However, Global's allegations about what the circuit court was or was not told are purely speculative. At least 12 court appearances occurred between the inception of the case and the filing of this appeal, yet transcripts were provided for only two court dates. "It is plaintiff's duty to provide a full record on appeal, and we will resolve any doubt in the record against her." *Jackson v. Kane County*, 2021 IL App (2d) 210153, ¶ 35. We will not assume representations were made or not made to the circuit court during the other 10 court appearances. Accordingly, we will not address this allegation.

¶ 46 4. Filing of Motions

¶ 47 Global next asserts that Tanner continued to file pleadings despite knowing that a motion to vacate the motion for an extension of time was pending. However, Global provided no legal

authority for this allegation. "This court is ' "entitled to have issues clearly defined with pertinent authority cited and cohesive arguments presented ([Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020)]), and it is not a repository into which an appellant may foist the burden of argument and research." ' " *Velocity Investments, LLC v. Alston*, 397 Ill. App. 3d 296, 297 (2010) (quoting *Stenstrom Petroleum Services Group, Inc. v. Mesch*, 375 Ill. App. 3d 1077, 1098 (2007), quoting *Obert v. Saville*, 253 Ill. App. 3d 677, 682 (1993)). As such, this allegation will not be addressed.

¶ 48 5. Representation to State's Attorney

¶ 49 Global's final five allegations concern "false representations" made by Tanner to the State's Attorney. Global argues that Tanner (1) made a "false offer" to the State's Attorney concerning when a property owner may dispute an extension of time, as an incentive for the State's Attorney to withdraw their motion to vacate; (2) falsely represented to the State's Attorney that the delay in filing the motion to extend the redemption date was attributable to the Governor's Disaster Proclamation; (3) falsely represented to the State's Attorney that the proclamation affected the filing requirements under the Property Tax Code; (4) falsely represented to the State's Attorney that the previous State's Attorney had agreed to file a motion to withdraw their motion to vacate; and (5) falsely represented to the attorney for Williamson County that the previous State's Attorney had agreed to file that motion. All five allegations concern purported false representations Tanner made to someone other than the circuit court.

¶ 50 Any fraud or deception Global asserts must have been directed at, and capable of affecting, the circuit court's decision to direct issuance of the deed. In other words, the court is at the center of an allegation, not the State's Attorney. Misrepresentations and material omissions *to the court* are the paradigm. For instance, fraud has been found where the purchaser's attorney, at the hearing, misrepresented the true owner despite knowing of a pending foreclosure, failed to disclose the

former owners' bankruptcy, and misrepresented that all required notices had been given—a cluster of misrepresentations made to the court. *In re Application of Lake County Collector*, 279 Ill. App. 3d at 139-40. It has been found fraudulent where the attorney represented that the bank was the only interested party when the tax-payment proofs showed another entity had paid subsequent taxes, because had the court known, it might have required that the other entity be located and served. *In re Application of the Cook County Collector*, 228 Ill. App. 3d 719, 733 (1991). And it has been found where an experienced tax-search agent consulted a recorded instrument disclosing the owner's attorney and tax-billing address yet withheld that information from the court, sufficient evidence of bad faith to conclude the deed was procured by fraud. *In re Application of County Treasurer*, 67 Ill. App. 3d 122, 131-32 (1978). The Illinois Supreme Court has recognized that where "proceedings regular in form are tainted with fraud," relief is available where it was alleged that the order was procured through deception. *Remer v. Interstate Bond Co.*, 21 Ill. 2d 504, 512-14 (1961).

¶ 51 Here, Global has not established any concrete nexus between its allegations of "false representations" to the State's Attorney and the circuit court's order issuing a tax deed. First, Global identifies the alleged false representations made by Tanner and asserts that they directly caused the State's Attorney to act or proceed in a particular manner. In essence, Global's allegations presume that the State's Attorney did not independently research, discuss, or investigate Tanner's statements before taking action.

¶ 52 Second, Global repeatedly asserts in its brief that the numerous "false representations" to the State's Attorney led the circuit court to "not know" that "Tanner missed the deadline to extend the redemption date," that "Tanner emailed the State's Attorney asking him to withdraw the Motion to Vacate," and that "the State's Attorney did not agree to withdraw the Motion to Vacate"

but instead stated that it would review the request. However, once again, Global's conclusions about what the circuit court did or did not know are not supported by any well-pleaded factual allegations. As stated previously, at least 12 court appearances occurred between the inception of the case and the filing of this appeal, yet transcripts were provided for only two court dates. We will not assume that the circuit court was unaware of any of these "false representations" during the other 10 court appearances, nor will we presume that any of the "false representations" to the States' Attorney directly caused the circuit court to act in a particular manner. The petitioner must allege specific facts the court did not know and show that knowledge of them might have changed the ruling. *In re Application of the County Treasurer & ex officio County Collector of Du Page County*, 2024 IL App (3d) 220465, ¶ 48. Global has simply failed to do this.

¶ 53 In sum, none of the 10 asserted "misrepresentations" supports relief under section 22-45(3). Those directed to the circuit court concerned matters of which the court was aware or is presumed to have known, and Global has alleged no fact that was both withheld from the court and capable of changing its ruling. The remaining representations as alleged were made to the State's Attorney, not to the court, and Global has shown no nexus between them and the court's decision to direct issuance of the deed. Accepting the well-pleaded facts as true, and disregarding the conclusory allegations, the second amended petition does not establish that the tax deed was procured by fraud or deception practiced upon the court, and the circuit court did not err in dismissing count II.

¶ 54 C. Count III

¶ 55 Count III sought relief under section 2-1401(f) of the Code of Civil Procedure and section 22-85 of the Property Tax Code, on the theory that because the tax deed was not taken out and recorded within one year after the redemption period expired, the certificate, the deed, and the underlying sale are "absolutely void." Global argues that section 22-85 creates a right to relief

independent of section 22-45, that a void deed may be attacked at any time and by any method preserved by section 2-1401(f), and that reading section 22-45 to foreclose the claim would render section 22-85 a nullity. We disagree.

¶ 56 As discussed above, section 22-45 provides that tax deeds issued under section 22-40 "are incontestable except by appeal from the order of the court directing the county clerk to issue the tax deed," subject to relief under sections 2-1203 or 2-1401 of the Code of Civil Procedure, and it expressly limits the grounds for section 2-1401 relief to four: payment of the taxes before sale, exemption, procurement of the deed by fraud or deception, and the failure to serve a recorded interest holder named in the section 22-20 publication notice. 35 ILCS 200/22-45 (West 2018). Section 22-85, in turn, declares that unless the certificate holder takes out and records the deed "within one year from and after the time for redemption expires," the certificate, deed, and sale "shall *** be absolutely void with no right to reimbursement." *Id.* § 22-85. Section 2-1401(f) preserves "any existing right to relief from a void order or judgment, or to employ any existing method to procure that relief." 735 ILCS 5/2-1401(f) (West 2018). A violation of section 22-85—the failure to timely take out and record the deed—is not among the four grounds enumerated in section 22-45. 35 ILCS 200/22-45 (West 2018).

¶ 57 We confronted the precise theory Global advances in *In re Application for a Tax Deed*, 2020 IL App (5th) 190168. There, the petitioners styled their claim as a "Section 22-85 Motion to Void Tax Deed," contending, as Global does here, that section 22-85 is a recognized vehicle distinct from a section 22-45 collateral attack, and that it contains no language limiting the grounds for relief. *Id.* ¶¶ 20-21. This court rejected that contention. *Id.* ¶ 40. While section 22-85 "is completely silent on the question of the procedure to raise an alleged violation," section 22-45 is not: it provides that a tax deed is incontestable except by (1) appeal, (2) a section 2-1203 motion,

or (3) a section 2-1401 petition, and a freestanding section 22-85 motion does not fall into any of those categories. *Id.* ¶¶ 21-22. Because the petitioners had insisted their claim was not a section 2-1401 petition, this court accepted that characterization and held that the count failed to state a claim upon which relief could be granted. *Id.* ¶ 28.

¶ 58 This court did not stop there. It observed that section 22-45 limits not only the manner of contesting a tax deed but also the grounds for section 2-1401 relief, and that "[s]ection 22-85 and the failure of the holder of the certificate of purchase to take out and record the tax deed within one year from the expiration of the redemption period are not included among the recognized grounds for relief under a section 2-1401 petition." *Id.* ¶ 26. That reading follows directly from our supreme court's holding in *DG Enterprises, LLC-Will Tax, LLC v. Cornelius*, 2015 IL 118975, ¶ 32, that a section 2-1401 petitioner is limited to only the grounds listed in section 22-45 when challenging a tax deed or the order directing its issuance, and that courts may not expand those grounds without "upsetting the careful balance the legislature has crafted between the competing policies of allowing collateral review in limited circumstances *** and of honoring the finality and marketability of tax deeds."

¶ 59 Finally, this court questioned whether a section 22-85 violation renders the order "void" at all for purposes of section 2-1401(f). *In re Application for a Tax Deed*, 2020 IL App (5th) 190168, ¶ 27. Section 2-1401(f) provides the means of attacking a void judgment, and an order is void not because of error or impropriety but because the issuing court lacked jurisdiction. *Id.* Because "[a] tax-sale proceeding is *in rem* and the court acquires jurisdiction over the land when the county collector makes his application for judgment and order for sale," and thereafter "retains jurisdiction to make all necessary findings and enter all necessary orders supplemental to the original tax sale," it is doubtful that a recording failure occurring after jurisdiction has attached could divest the court

of jurisdiction so as to render the order and deed void. (Internal quotation marks omitted.) *Id.* Although this court expressly declined to decide that question, its reasoning confirms that section 22-85's use of the word "void" does not, without more, convert a postjudgment recording defect into a jurisdictional defect cognizable under section 2-1401(f).

¶ 60 Our supreme court affirmed. It held that "the available avenues for vacating the *** tax deed are clearly outlined in section 22-45," and that even construing the section 22-85 count as a section 2-1401 petition, the allegations did not allege any of the grounds listed in section 22-45, so dismissal was proper. *In re Application for a Tax Deed*, 2021 IL 126150, ¶¶ 32, 34. The court declined "to reweigh the legislature's determination of how to balance the competing public policies underlying the statutory avenues available to obtain collateral relief in tax deed cases." *Id.* ¶ 42.

¶ 61 Count III falls squarely within the rule of *In re Application for a Tax Deed*. Global's claim rests on a single premise—that the deed was recorded late and is therefore void under section 22-85—pressed through section 2-1401(f). Whether styled as a freestanding section 22-85 claim or as a section 2-1401 petition, it cannot proceed. As a freestanding claim, it is not one of the three vehicles section 22-45 permits. As a section 2-1401 petition, it alleges no ground enumerated in section 22-45, because a section 22-85 late-recording defect is not among them. And to the extent Global invokes section 2-1401(f)'s void-judgment exception, the circuit court acquired *in rem* jurisdiction when the collector applied for judgment and order of sale and retained that jurisdiction through entry of the order directing issuance of the deed; a subsequent recording failure does not divest the court of jurisdiction so as to render the order void. *Vulcan Materials Co. v. Bee Construction*, 96 Ill. 2d 159, 165 (1983).

¶ 62 Global's contention that this construction renders section 22-85 a nullity does not alter the result. Our supreme court weighed the same competing policies and confined collateral relief to the grounds the legislature enumerated, declining to expand them. *In re Application for a Tax Deed*, 2021 IL 126150, ¶ 42. Global's reliance on the First District's decision in *In re Application of the County Treasurer & ex officio County Collector of Cook County*, 2012 IL App (1st) 101976, is unavailing: this court in *In re Application for a Tax Deed*, 2020 IL App (5th) 190168, ¶ 26, recognized it but held it "is not clear that [it] comport[s] with the statutory language or Illinois Supreme Court precedent," and the First District has since realigned, holding that a tax deed is "not void" under section 22-85 because the court retains jurisdiction to enter all orders supplemental to the sale and a section 22-85 violation does not divest it. *In re Application of the County Treasurer & ex officio County Collector of Cook County*, 2023 IL App (1st) 220070, ¶ 39.

¶ 63 Because count III fails to state a cognizable ground for relief under section 22-45 as construed in our previous case of *In re Application for a Tax Deed*, and affirmed in 2021 IL 126150, it was properly dismissed.

¶ 64 D. Remaining Issues

¶ 65 Because we affirm the dismissal of each count on the merits, we need not address Tanner's alternative contention that Global lacks standing to seek relief under section 2-1401. Nor is the denial of Scarlet Eco Solutions, LLC's motion to intervene before us: Scarlet did not appeal that ruling and is not a party to this appeal. The dismissal of the petition as to Scarlet is therefore undisturbed.

¶ 66 III. CONCLUSION

¶ 67 For the foregoing reasons, the dismissal order entered by the circuit court is affirmed.

¶ 68 Affirmed.