

IN THE SUPREME COURT
OF THE
STATE OF SOUTH DAKOTA

EMILY BIALOTA,

Plaintiff and Appellant,

v.

LAKOTA LAKES, LLC, a Minnesota
Limited Liability Company; PETER J.
TAUNTON, KRISTIN M. TAUNTON,
and all persons unknown, claiming any
legal or equitable right, title, estate, lien,
or interest in the property described in
the complaint adverse to plaintiff's title
or a cloud on plaintiff's title thereto,

Defendants and Third-Party
Plaintiffs and Appellees,

v.

PENNINGTON COUNTY, acting by and
through its Treasurer,

Third-Party Defendants.

APPEAL FROM THE CIRCUIT COURT OF
THE SEVENTH JUDICIAL CIRCUIT
PENNINGTON COUNTY, SOUTH DAKOTA

THE HONORABLE HEIDI L. LINNGREN
Judge

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CONSIDERED ON BRIEFS
AUGUST 25, 2026
OPINION FILED 10/07/26

JENSEN, Chief Justice

[¶1.] Emily Bialota brought a quiet title action against Lakota Lakes, LLC, Peter Taunton, and Kristin Taunton (collectively, Defendants), after acquiring, via tax deed, real property previously owned by the Tauntons and then by Lakota Lakes. The circuit court granted Defendants’ motion for summary judgment in 2021, concluding Bialota’s tax deed was void because the notice of intent to take tax deed (Notice) was not properly served on Lakota Lakes. This Court reversed the court’s judgment in *Bialota v. Lakota Lakes, LLC*, 2024 S.D. 7, 3 N.W.3d 454 (*Bialota I*). On remand from *Bialota I*, the circuit court denied Bialota’s motion for a determination that she was entitled to a judgment and order quieting title. The court later granted Defendants’ motions to determine tax and to make redemption and denied Bialota’s motion for relief from an order quieting title, concluding that Bialota failed to give Notice to Peter Taunton. The court ordered Pennington County to issue a certificate of redemption and dismissed Bialota’s complaint, with prejudice. Bialota appeals. We reverse.

Factual and Procedural Background

[¶2.] The Tauntons purchased the real property at issue (Property) in May 2008 and subsequently contributed the Property to Lakota Lakes by quitclaim deed in June 2009. Lakota Lakes failed to pay property taxes owed for the year 2015, and Pennington County offered the Property for tax sale in December 2016. The Property was sold to Pennington County for \$18,480.01, the amount due for nonpayment of taxes, plus penalties, interest, and costs. Pennington County’s repeated efforts to provide Lakota Lakes with its notice of intent to seek a tax deed

were unsuccessful, and it sold the tax certificate to Bialota and assigned it to her in October 2020.

[¶3.] Bialota attempted to serve the Notice on Lakota Lakes at its business address in Eden Prairie, Minnesota, and at a Chaska, Minnesota address listed in the quitclaim deed. Bialota ultimately delivered an affidavit and Notice to the Minnesota Secretary of State, Lakota Lakes' registered agent under Minnesota law. The Minnesota Secretary of State issued a service-of-process acknowledgement, which Bialota provided to the Pennington County Treasurer on November 9, 2020. Lakota Lakes failed to timely redeem the Property and Pennington County issued a tax deed to Bialota on January 11, 2021.

[¶4.] When Taunton learned of the tax deed issued to Bialota, he offered to repurchase the Property from Bialota, who refused the offer. Bialota brought a quiet title action against Lakota Lakes and Taunton, pursuant to SDCL chapter 21-41. After answering and filing a counterclaim, Lakota Lakes and Bialota filed cross-motions for summary judgment. Lakota Lakes argued that because Bialota's Notice was not personally served on either Lakota Lakes or the Tauntons, pursuant to SDCL 10-25-5, the tax deed was invalid and void. Bialota maintained that she complied with the statutory requirements for personal service of the Notice on Lakota Lakes.

[¶5.] The circuit court granted Lakota Lakes' motion for summary judgment and denied Bialota's motion for summary judgment, concluding that under South Dakota law, Bialota failed to serve the Notice on Lakota Lakes personally, rendering the tax deed void. Bialota appealed the court's grant of summary

judgment in favor of Lakota Lakes but did not appeal the court’s denial of her motion for summary judgment.

[¶6.] In *Bialota I*, we reversed the circuit court’s entry of summary judgment and remanded “with directions for further proceedings consistent with this opinion.”¹ *Bialota I*, 2024 S.D. 7, ¶ 25, 3 N.W.3d at 462. We concluded that the delivery and acceptance of the Notice by the Minnesota Secretary of State, a qualified registered agent for Lakota Lakes, constituted personal service of the Notice on Lakota Lakes. *Id.* ¶ 23, 3 N.W.3d at 461–62.

[¶7.] Soon after remand, Bialota filed a motion for determination that she was entitled to a judgment and order quieting title, asserting that “the further proceedings” directed by the Court were limited to the entry of a judgment and order quieting title. Defendants responded that the matter was “not yet ripe for judgment,” noting that while the Court reversed summary judgment in their favor, Bialota did not appeal the denial of her motion for summary judgment. Defendants claimed, therefore, that the circuit court had a number of issues to resolve before ruling on Bialota’s request for a judgment quieting title. Bialota argued she was

1. Following our decision, we granted Lakota Lakes’ petition for rehearing and withdrew the original opinion. *See Bialota v. Lakota Lakes, LLC*, 2023 S.D. 55, 997 N.W.2d 376, *opinion withdrawn on reh’g*, No. 29851, 2024 WL 737024 (S.D. Feb. 7, 2024), and *superseded*, 2024 S.D. 7, 3 N.W.3d 454. We then issued an amended opinion and judgment. *See Bialota v. Lakota Lakes, LLC*, 2024 S.D. 7, 3 N.W.3d 454. In the original opinion, the Court reversed and remanded, “with directions for the circuit court to enter judgment as a matter of law quieting title to the real property in favor of Bialota.” *Bialota*, 2023 S.D. 55, ¶ 25, 997 N.W.2d at 383. While our reasoning remained the same, we amended our remand directions to the circuit court, and reversed and remanded, “with directions for further proceedings consistent with this opinion.” *Bialota I*, 2024 S.D. ¶ 25, 3 N.W.3d at 462.

“entitled to the tax deed to the property” and that the only further action to be taken was an order quieting title to her. The circuit court denied Bialota’s motion by order dated September 10, 2024.

[¶8.] Defendants filed a motion to make redemption, relying on SDCL 21-42-10, which provides in part: “Any defendant to an action may make redemption of the lands from tax sales by paying the total amount of delinquent taxes, penalties and interest.” Bialota opposed that motion, partially on the ground that the right of redemption had expired under SDCL 10-25-8.

[¶9.] Prior to the circuit court’s ruling on Defendants’ motion to make redemption, Defendants were granted leave to file a third-party complaint against Pennington County and the Pennington County Treasurer (collectively, the County), seeking damages and a declaratory judgment determining that SDCL 10-25-8.1 and 10-25-11 violate the Takings Clause of the United States and South Dakota Constitutions.

[¶10.] The circuit court granted Defendants’ motion to determine tax and motion to make redemption by order dated April 30, 2025. Bialota moved for relief from that order under SDCL 15-6-60(b)(3), based on Lakota Lakes’ alleged fraudulent reports filed with the secretary of state and alleged fraudulent statements regarding the purchase price of the Property. However, before the court could rule on Bialota’s motion for relief and on the County’s motion to dismiss, Bialota filed notice of appeal on May 28, 2025. We dismissed that appeal by order dated July 25, 2025, because it was not from a final, appealable order.

[¶11.] The circuit court entered an order dated October 6, 2025, in which it ruled on the remaining motions, granting Defendants’ motion for deposit of funds; denying Defendants’ motion for summary judgment as moot; denying the County’s motion to dismiss as moot; denying Bialota’s motion for relief from order; and determining that all remaining issues were moot.² The court also directed the Pennington County Treasurer to issue a certificate of redemption, and it dismissed Bialota’s complaint, with prejudice.

[¶12.] Bialota raises several issues on appeal, including whether the circuit court erred in granting Defendants’ motion to make redemption. Due to our resolution of this issue, we need not consider the other issues raised by Bialota.

Standard of Review

[¶13.] The facts in this appeal are not in dispute. The parties disagree only on the application and interpretation of statutes governing who is entitled to notice of intent to take a tax deed and the method of quieting title. We review these issues de novo. *Dahn v. Trownsell*, 1998 S.D. 36, ¶ 13, 576 N.W.2d 535, 538–39, *abrogated on other grounds by Jones v. Flowers*, 547 U.S. 220 (2006); *see also Bryant v. Bryant*, 2026 S.D. 13, ¶ 10, 32 N.W.3d 700, 704 (stating that the construction and

2. The County moved to dismiss the third-party complaint, but after the circuit court granted Defendants’ motion for redemption, the parties agreed that the constitutional issues associated with the third-party complaint were rendered moot and that the order granting redemption was a final order. We agree that the third-party complaint was rendered moot by the circuit court’s redemption order and that such order was final for the purposes of SDCL 15-26A-3. *See Long v. Sterling Real Estate Acquisitions, LLC*, 554 S.W.3d 455, 458 (Mo. Ct. App. 2018) (holding that where a “decision on other issues in the case effectively disposes of the issue not specifically adjudged, the judgment is final and appealable”).

application of statutes involve conclusions of law, which “are reviewed under a de novo standard, with no deference to the trial court’s conclusions of law” (citation modified)). “This Court overturns a trial court’s conclusions of law only when the trial court erred as a matter of law.” *Id.* (citation modified).

Analysis

Whether the circuit court erred in granting Defendants’ motion to make redemption.

[¶14.] Bialota argues the circuit court erred by permitting Taunton to redeem the Property because the time for redemption expired 60 days after the “filing of affidavit of completed service of the notice” upon the treasurer.³ SDCL 10-25-8 and 8.1. Bialota maintains that after the redemption period ended, the treasurer properly issued a tax deed to her, consistent with SDCL 10-25-11, which vested her with right, title, and interest in the Property. *See also* SDCL 10-25-12. Bialota also argues that Taunton was not entitled to redeem the Property pursuant to SDCL 21-42-10 because he did not have an ownership interest in the Property.

[¶15.] Defendants respond that Taunton had an absolute right to redeem the Property pursuant to SDCL 21-42-10 because he was a named defendant in the quiet title action. They also argue that Bialota’s claim that SDCL 10-25-8.1

3. Bialota also argues the circuit court acted contrary to this Court’s mandate and “ignored completely this Court’s directives.” She maintains the Court’s “directions for further proceedings consistent” with our opinion limited the circuit court’s action on remand to entry of a judgment and order quieting title. This premise is not supportable because the amended opinion we issued after rehearing was left open without a specific directive. *Bialota*, 2024 S.D. 7, ¶ 25, 3 N.W.3d at 462. Outside of our determination that Bialota accomplished personal service of the Notice, the Court gave no other mandate.

precludes any right to redemption would amount to an improper taking of property by the County. *See Tyler v. Hennepin Cnty., Minnesota*, 598 U.S. 631, 644–45 (2023) (holding that county’s retention of the value of taxpayer’s home that exceeded tax debt violated the Takings Clause of the United States Constitution). Defendants contend that since Taunton was not served with notice under SDCL chapter 10-25, any preclusion by SDCL 10-25-8.1 would not limit Taunton’s right to redeem under SDCL 21-42-10. Defendants argue that SDCL 21-42-10 affords *any* defendant a right to redeem, even where a tax deed has been issued. SDCL 21-42-1 (providing that “any purchaser of property at [a] tax sale, desiring a tax deed for any such property or desiring to quiet the title to property already covered by tax deeds may bring an action in the circuit court for the county within which such real property is situated”).

[¶16.] A statutory process for a party to obtain a tax deed and to quiet title was described by the Court in *Dahn*, 1998 S.D. 36, ¶ 3, 576 N.W.2d at 537 (citing SDCL 10-25-5). First, the party seeking to obtain the tax deed must serve notice of intent to take tax deed upon the owners of the real property. *Id.* The Court further explained:

After completing the requirements of SDCL 10-25-5, the party wishing to obtain a tax deed submits an affidavit of completed service to the county treasurer. SDCL 10-25-8. The right to redeem the tax certificate “shall not expire” until “sixty days after the filing” of this affidavit. *Id.* If the owner, or certain other interested persons, fails to redeem the tax certificate within the sixty days, the holder of the tax certificate receives an “absolute estate in fee simple” subject to certain “taxes, liens and encumbrances.” SDCL 10-25-12. After obtaining the tax deed, the purchaser may bring an action to quiet title to the property.

Id. ¶ 4, 576 N.W.2d at 537.

[¶17.] Bialota maintains that she correctly followed this process in obtaining the tax deed and in quieting title to the Property. Defendants argue that although *Lakota Lakes* did not timely seek redemption, *Taunton*, as a named defendant in the quiet title action, also has an “unqualified” statutory right to redeem, and that because Bialota failed to give Notice to Taunton, his right to redeem had not expired. In support, Defendants rely on SDCL 21-42-10, which provides in relevant part:

Any defendant to an action may make redemption of the lands from tax sales by paying the total amount of delinquent taxes, penalties and interest thereon . . . , which shall have been paid by the plaintiff or which is due the county, if the county is plaintiff, together with costs of the action. Upon payment, a certificate of redemption shall be issued by the county treasurer of the county to the defendant and the action shall be dismissed.

(Emphasis added.)

[¶18.] The circuit court agreed with Defendants and found that as a named defendant in the quiet title action, Taunton was also entitled to Notice. The court determined that although Lakota Lakes failed to redeem “within the statutory window outlined in SDCL 10-25-8,” Taunton was never served with Notice and he was entitled to redeem the Property pursuant to SDCL 21-42-10.

[¶19.] Significantly, Bialota’s quiet title action was brought pursuant to SDCL chapter 21-41, not chapter 21-42. SDCL 21-41-1 broadly provides that a quiet title “action may be maintained by any person or persons having or claiming to have an estate or interest in or lien or encumbrance upon any real property, whether in or out of possession thereof and whether such property is vacant or

occupied[.]” After obtaining a tax deed under SDCL chapter 10-25, Bialota had or claimed an interest in the Property and was entitled to seek to quiet title under SDCL chapter 21-41.

[¶20.] SDCL chapter 21-42 provides a different and *alternative* method to obtain a tax deed and quiet title to real property purchased after delinquent taxes. *See Dougall v. Sateren*, 203 N.W.2d 789, 791–92 (S.D. 1973) (explaining that in “1941 the legislature enacted a new section, . . . now SDCL 21-42,” which provides for “combining the taking of a tax deed and an action to quiet the tax title”). Pursuant to SDCL chapter 21-42, a party is not required to obtain a tax deed under SDCL chapter 10-25 before commencing the action. Rather, under this procedure, a party “desiring a tax deed for any such property or desiring to quiet the title to property already covered by tax deeds may bring an action in the circuit court for the county within which such real property is situated[.]” SDCL 21-42-1.

[¶21.] Bialota followed the statutory procedure in SDCL chapter 10-25 for taking the tax deed and then filed an action to quiet title under SDCL chapter 21-41. This two-step approach was expressly preserved when SDCL chapter 21-42 was enacted. SDCL 21-42-1 (providing that SDCL chapter 21-42 is not the exclusive method to quiet title, stating that it is “[i]n addition to and not in lieu of the method otherwise provided by the statutes of this state for the taking of tax deeds”) (emphasis added); SDCL 21-42-7 (stating the “rules of procedure outlined by §§ 21-42-4 to 21-

42-6, . . . *shall not be exclusive of any other statutory procedure to procure tax deeds and to quiet title upon tax deeds*”) (emphasis added).⁴

[¶22.] Bialota received a tax deed from the County after service of Notice on the “owner of record of the real property.” SDCL 10-25-3. The record is undisputed that Lakota Lakes owned the Property at the time.⁵ This Court held in the first appeal that the Notice served on the Minnesota Secretary of State was personal service on Lakota Lakes. *Bialota I*, 2024 S.D. 7, ¶ 23, 3 N.W.3d at 461–62. Accordingly, Bialota properly gave Notice to Lakota Lakes pursuant to SDCL 10-25-3, and Lakota Lakes did not timely redeem under SDCL 25-10-8. Bialota was not, however, required to give Notice to Taunton under SDCL 10-25-3 because Taunton was not the owner of record of the Property and Taunton has no right of redemption

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4. Other states’ statutes also allow for more than one procedure to quiet title, and the procedure that applies is based on the method chosen by the plaintiff. *See, e.g., Higgins v. Mont. Hotel Corp.*, 592 P.2d 930, 933 (Mont. 1979) (noting that under the then-existing statutes, “[t]itle to the property in the form of a tax deed may be obtained in either of two ways” and noting the plaintiff chose the judicial method); *Republic Title Co., LLC v. Freeport Title & Guar., Inc.*, 829 S.E.2d 172, 175–76 (Ga. Ct. App. 2019) (noting the state’s methods for quieting title—the “conventional quiet title” method and the method used to “quiet title against all the world”—and explaining that plaintiff filed a conventional quiet title petition and that the standard from the other statutory scheme was not, therefore, implicated).
 5. In support of their motion for summary judgment, Defendants’ statement of undisputed material facts stated, “[t]he Tauntons formed a Minnesota limited liability company and contributed the property to Lakota Lakes, LLC on June 4, 2009.” Further, in response to Bialota’s statement of undisputed material facts, Lakota Lakes stated it was “[u]ndisputed that Lakota Lakes, LLC acquired the property from the Tauntons by Quit Claim Deed dated June 4, 2009.”

in this action under SDCL chapter 21-41.⁶ *See* SDCL 10-25-3 (setting forth the persons entitled to notice of intention to take tax deed).

[¶23.] In short, Bialota properly acquired the tax deed pursuant to SDCL chapter 10-25, and she filed an action to quiet title pursuant to SDCL chapter 21-41. Because the only owner of the Property—Lakota Lakes—did not timely redeem, Bialota owns the Property in fee. SDCL 10-25-8.1 (providing that the property owner’s failure to redeem the tax certificate within 60 days of the date of the filing of the affidavit of completed service of the notice “passes all of the right, title, and interest of the owner . . . to the holder of the tax certificate subject to the taxes, liens, and encumbrances”).

[¶24.] For these reasons, the circuit court erred in granting Defendants’ motion to make redemption. We reverse and remand for further proceedings consistent with this opinion.

[¶25.] SALTER and MYREN, Justices, and MEANS, Circuit Court Judge, concur.

[¶26.] DEVANEY, Justice, concurs specially.

[¶27.] MEANS, Circuit Court Judge, sitting for GUSINSKY, Justice, who deemed himself disqualified and did not participate.

6. Defendants have never claimed that Taunton was “the person in possession of the real property, the person in whose name the real property is taxed” or the “mortgagee named in any unsatisfied mortgage.” SDCL 10-25-3.

DEVANEY, Justice (concurring specially).

[¶28.] I agree that because Bialota was seeking to quiet title under SDCL chapter 21-41, the provision in SDCL chapter 21-42—upon which the circuit court relied when granting Defendants’ motion to allow Taunton to redeem—was inapplicable. I therefore agree that the circuit court’s dismissal of Bialota’s complaint was erroneous on this basis and that the case must be remanded for further proceedings. However, for the reasons stated in the dissenting opinion in *Bialota v. Lakota Lakes, LLC*, 2024 S.D. 7, 3 N.W.3d 454 (*Bialota I*), which I joined, I maintain my view that the circuit court’s earlier grant of summary judgment to Lakota Lakes was proper, based on Bialota’s failure to properly serve notice of intent to take a tax deed on Lakota Lakes in the manner required under SDCL 10-25-5.