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## Creditors' Rights—Sufficiency of Power of Attorney to Satisfy Bank's Duty to Depositor

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redemption.<sup>21</sup> Since there is an addition of the words "or any person interested in" in the Suffolk County Tax Act, the question is whether the court should interpret it the same as the *Campbell and Blatnicky* cases,<sup>22</sup> or restrict the redemption completely to an owner or interested party. The Court has chosen the former, holding that the addition of the words in question is merely an intention of the legislature to stress the fact that a stranger could not redeem in his own name for himself. Thus, the consequence of the payment by plaintiff, before the redemption period ended, was a return of title to the estate of Emma Gerow, thus enabling the estate to deed the property to plaintiff at a later date.

The Court, in effect, holds that there is no difference between the two statutes previously mentioned. This seems to be the logical conclusion when considering the interests of the parties involved, for to hold otherwise would create an unreasonable burden upon the County Treasurer to question every payment tendered him in redemption after a tax sale, and to determine whether the person so tendering payment has an interest in the property involved.<sup>23</sup>

#### SUFFICIENCY OF POWER OF ATTORNEY TO SATISFY BANK'S DUTY TO DEPOSITOR

The courts of New York have long held that the relation between a bank and its general depositors is that of debtor and creditor, the amount on deposit representing an indebtedness by the bank to the depositor.<sup>24</sup> When defendant bank, in *Romero v. Sjoberg*,<sup>25</sup> paid funds from the decedent's savings account upon presentation of a power of attorney authorizing the holder to collect the debts of the deceased, a unanimous Court of Appeals held the bank was neither guilty of conversion by wrongful payment nor of failing to satisfy its duty of due care.

It should be noted that appellant's was an appeal of right under Section 588 of the Civil Practice Act,<sup>26</sup> since the Appellate Division had modified a judgment of the trial court.<sup>27</sup> The decision seems well grounded, the debtor-creditor relation of bank and depositor being one of long standing,<sup>28</sup> the power of attorney not seriously questioned at any stage of the proceeding.

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21. *Blatnicky v. Ciancimino*, 2 N.Y.2d 943, 162 N.Y.S.2d 38 (1957).

22. See *supra* note 20, 21.

23. It should be noted that when property is sold at a tax sale, the purchaser does not receive title, but only a tax certificate, which entitles him to legal and equitable ownership of the land only if the taxes are not paid by some other party during the period of redemption.

24. *Sundail Construction Co. v. Liberty Bank of Buffalo*, 277 N.Y. 137, 13 N.E.2d 745 (1938); *Gibraltar Realty Corp. v. Mount Vernon Trust Co.*, 276 N.Y. 353, 12 N.E.2d 438 (1938); *Critten v. Chemical National Bank*, 171 N.Y. 219, 63 N.E. 969 (1902).

25. 5 N.Y.2d 518, 186 N.Y.S.2d 246 (1959).

26. Whenever the Appellate Division decision may be deemed a modification of the trial court's judgment, an appeal is allowed under this section as a matter of right.

27. Here the Appellate Division had reversed a trial court dismissal against one of two original defendants, not the defendant respondent. See: *Zirn v. Bradley*, 292 N.Y. 581, 54 N.E.2d 695 (1944); *Unger v. Village of Falconer*, 2 N.Y.2d 731, 157 N.Y.S.2d 371 (1956).

28. *Supra* note 24.