

# Homebuyer claims diet pills caused auction mistake

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**T**he diet pills may have made her do it.

South **Orange County** resident Mary McKaig said she had been confused after taking "judgment-altering" weight-loss medication for the first time and mistakenly bid more than \$100,000 at a Feb. 19 public auction for a house that — unbeknownst to her — was saddled with more than \$400,000 of debt, according to court documents filed by her attorney.

Immediately after submitting the top auction bid through the Orange County court auction process, McKaig realized she made a mistake, according to the court records. She hired an attorney to try to undo what she had just done.

McKaig and her husband "basically dumped \$100,000 into a property that is \$100,000 underwater," said Orlando attorney Richard Weinman, who represents McKaig.

The \$102,000 that McKaig agreed to pay for the two-story home in Windermere only paid off the homeowner-association debt. Public records show Chase Mortgage has for years had a \$400,000 lien on the house, for which tax records show a market value of \$290,127.

Not long before the bidding process had started, McKaig began taking a new prescription of phentermine diet pills, her attorney's filings stated. The medication impaired her and "caused her to make mistakes and alter her judgment," states the court records in Orange County Circuit Court.

Legal filings in the case have debated whether the weight-loss prescription could indeed have caused McKaig to make such a mistake. Side effects of the medication, which she began taking the day she purchased the house, include dizziness and difficulty sleeping but not impairment of judgment.

In Florida, homeowner associations can foreclose on houses with unpaid association fees, but that doesn't erase other debt on the property. Bidders who win a homeowner-association foreclosure generally keep the property until the mortgage holder, in this case Chase Mortgage, decides to finalize its own foreclosure.

Bidders who win a homeowner-association foreclosure generally lose the property once the mortgage holder finalizes the foreclosure, but some owners have been able to rent out the properties until that happens.

Realauction.com, which runs the online auctions for Orange County courts, warns bidders that it's up to them to research the value, title defects, liens, mortgages or other debt on auction properties.

McKaig was responsible for researching the house "and had not discovered the mortgage before the sale," her attorney wrote in court filings. McKaig, who owns a home in southeast Orlando with her husband,

John C. Hahn, declined to comment. Her attorney stated that his client would have never bid on the foreclosure sale if she had been clearheaded enough to realize that she was getting a large mortgage along with the house.

Others have mistakenly bought property at a public auction, only to realize too late that it was mired in mortgage debt. Realauction spokesman Lloyd McClendon said such mistakes were more common several years ago when the auctions went online and now occur only rarely.

On the Windermere house that McKaig purchased for \$102,000, the Belmere Homeowner Association sought to recover just \$15,929 of overdue fines and fees. McKaig was among a number of bidders who far exceeded the association's lien on the property. With the money McKaig paid for the house, the homeowner association will recover its overdue fines.

Those extra funds, which amounted \$84,000 left on the table above the amount owed on the homeowner-association lien, could go to the previous owners or Chase Mortgage, said Orlando attorney Moses DeWitt, who represents the couple who lost the house in foreclosure. That's still being determined, he added.

Even if the surplus money goes to retire the mortgage debt on the house, it would still be underwater, records show.

Mistakenly buying a property enshrouded in debt is more common than most people think, DeWitt said. He noted that five other bidders on the Windermere house were willing to pay more than the homeowner-association debt on it.

But few people, he added, overbid by as much as McKaig did.

"I've seen so many people get themselves into this situation," said DeWitt. He said he once had a client who purchased at auction a house that, unbeknownst to the buyer, was deeply underwater. The buyer spent \$50,000 on renovations before he realized his mistake and the bank filed to foreclose.

Weinman said foreclosure-auction bidders are best served when they hire an insured title company to research the property. For anyone who wants to bid on multiple properties, that can become expensive.

But, he added, it's better than unknowingly purchasing a property deeply underwater with debt.

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