

A man owned property that he used as his residence. The man received a loan, secured by a mortgage on the property, from a bank. Later, the man defaulted on the loan. The bank then brought an appropriate action to foreclose the mortgage, was the sole bidder at the judicial sale, and received title to the property as a result of the foreclosure sale.

Shortly after the foreclosure sale, the man received a substantial inheritance. He approached the bank to repurchase the property, but the bank had decided to build a branch office on the property and declined to sell.

If the man prevails in an appropriate action to recover title to the property, what will be the most likely reason?

- A. He had used the property as his residence.
- B. He timely exercised an equitable right of redemption.
- C. The court applied the doctrine of exoneration.
- D. The jurisdiction provides a statutory right of redemption.

Explanation:

Right of redemption

(regaining title after default on loan)

	Timing	Assertion of right
Equitable right (always exists)	At any time prior to foreclosure sale	Pay full amount of debt due (including interest) to lender
Statutory right (if statute exists)	Statutory period after property has been sold in foreclosure	Pay foreclosure sale price to purchasing party

When a debtor defaults on mortgage payments, the creditor may initiate foreclosure proceedings to force the sale of the mortgaged property to satisfy the unpaid debt. Once the property is sold, jurisdictions with a **statutory right of redemption** allow the original debtor to **reacquire ownership** of the property by **paying the foreclosure sale price** to the purchasing party—even if that party is the creditor—within a **designated time**. Therefore, the man will successfully redeem his property from the bank if the jurisdiction provides this statutory right.

(Choice A) Unless otherwise noted, the statutory right of redemption applies to any real property—not just residential property.

(Choice B) The equitable right of redemption allows a debtor to reclaim mortgaged property *before* foreclosure by paying the full amount of the outstanding debt. Therefore, the man did not timely exercise this right by attempting to repurchase the property *after* foreclosure.

(Choice C) The doctrine of exoneration allows a will beneficiary to use the estate's general assets to pay off any encumbrances (eg, mortgages) on the devised property. But since the man did not receive devised mortgaged property (he placed the mortgage on the property himself), this doctrine does not apply.

Educational objective:

The statutory right of redemption allows a debtor to reacquire ownership of property *after* foreclosure by paying the foreclosure sale price to the purchasing party within the designated statutory period.

References

30 Am. Jur. 2d Executions and Enforcement of Judgments § 291 (2018) (statutory right of redemption).

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