§ 46A-83. Petition for revocation of confirmation order.

(a) Grounds for Revocation. – Notwithstanding G.S. 46A-76 or any other provision of law, within 15 days of entry of the order confirming the partition sale of real property, the purchaser or any party to the partition proceeding may petition the court to revoke its order of confirmation and to order the withdrawal of the purchaser's offer to purchase the property upon the following grounds:

(1) In the case of a purchaser, a lien remains unsatisfied on the property to be conveyed.

(2) In the case of any party to the partition proceeding, any of the following:

a. Notice of the partition was not served on the petitioner for revocation as required by G.S. 1A-1, Rule 4.

b. Notice of the sale was not mailed to the petitioner for revocation as required by G.S. 46A-76(d).

c. The amount bid or price offered is inadequate and inequitable and will result in irreparable damage to the owners of the real property.

In no event shall the confirmation order become final during the pendency of a petition under this section. No upset bid shall be permitted after the entry of the confirmation order.

(b) Effect of Notice. – A petitioner for revocation shall not prevail under sub-subdivision (a)(2)a. or b. of this section, if the petitioner was mailed notice of the sale in accordance with G.S. 46A-76(d).

(c) Service; Notice of Hearing. – The party petitioning for revocation shall serve all parties required to be served under G.S. 1A-1, Rule 5, and shall serve the officer or person designated to make the sale under G.S. 1A-1, Rule 4(j). The court shall schedule a hearing on the petition within a reasonable time and shall cause a notice of the hearing to be served on the petitioner, the officer or person designated to make the sale, and all parties required to be served under G.S. 1A-1, Rule 5.

(d) Petition by Purchaser. – In the case of a petition brought under this section by a purchaser claiming the existence of an unsatisfied lien on the property to be conveyed, if the purchaser proves by a preponderance of the evidence all of the following, the court may revoke the order confirming the sale, order the withdrawal of the purchaser's offer, and order the return of any money or security to the purchaser tendered pursuant to the offer:

(1) A lien remains unsatisfied on the property to be conveyed.

(2) The purchaser has not agreed in writing to assume the lien.

(3) The lien will not be satisfied out of the proceeds of the sale.

(4) The existence of the lien was not disclosed in the notice of sale of the property.

The order of the court in revoking an order of confirmation under this section shall not be introduced in any other proceeding to establish or deny the existence of a lien.

(e) Petition by Party. – In the case of a petition brought pursuant to this section by a party to the partition proceeding, if the court finds by a preponderance of the evidence that the petitioner has proven a case pursuant to sub-subdivision (a)(2)a., b., or c. of this section, the court may revoke the order confirming the sale, order the withdrawal of the purchaser's offer, and order the return of any money or security to the purchaser tendered pursuant to the offer.

(f) Resale. – If the court revokes its order of confirmation under this section, the court shall order a resale. The procedure for a resale is as provided under G.S. 46A-76. (1977, c. 833, s. 1; 1985, c. 626, ss. 3-7; 2001-271, s. 19; 2009-362, s. 4; 2009-512, s. 5; 2020-23, ss. 2(hh), 3; 2021-91, s. 2(c).)