

JOHN DATTALA

VS.

Respondents

Docket 84762 Document 2023-24145

holding is that a car thief who sold a car owned by Alamo to a Nevada resident by a forged certificate of title could not defeat the ownership rights of the defrauded party. A thief cannot convey good title even to an alleged good faith bona fide purchaser. Id. @ 451.

Nevada has two specific statutes codifying this legal rule for title to real property.

NRS 111.025 Conveyances void against purchasers are void against their heirs or assigns. Every conveyance, charge, instrument or proceeding declared to be void by the provisions of this chapter, as against purchasers, shall be equally void as against the heirs, successors, personal representatives or assigns of such purchaser

NRS 111.175 Conveyances made to defraud prior or subsequent purchasers are void. Every conveyance of any estate, or interest in lands, or the rents and profits of lands, and every charge upon lands, or upon the rents and profits thereof, made and created with the intent to defraud prior or subsequent purchasers for a valuable consideration of the same lands, rents or profits, as against such purchasers, shall be void.

Neither of these statutes are cited in a reported decision. This is despite both statutes being enacted in 1861. Which leads to a couple of possible conclusions. That they so plainly written that they are easily applied to facts. Likely, the factual pattern to which these statutes apply rarely happens, and when it does, the parties reach a settlement, avoiding a reported opinion.

These statutes were not even considered at the trial court level. Judge Escobar actually stated on the record “Mr. Childs, I heard what you have to say that we haven’t specifically discussed 111.025, 111.175”. [JA Vol. 9, 2043:25 - 2044:1] So the court acknowledged not even considering these statutes.

COURTS ROUTINELY RELY ON NEWSPAPER ARTICLES

Courts routinely look to newspaper articles as evidence when deciding cases. See Food & Water Watch v. Del. Dep’t of Nat. Res. & Env’tl. Control, Del. Super. LEXIS 617, 2019 WL 6481888 (2019).

In United States v. Ringgold, U.S. Dist. LEXIS 13960 (2007), the federal court addressed an article in the Las Vegas Review Journal that was in evidence about racial profiling, which was an issue in that case.

A federal district court in Pennsylvania refused to allow a newspaper article as exculpatory evidence because it was not provided to the court within 60 days, Rivera v. Sommers, U.S. Dist. LEXIS 179722 (2007). In this case Dattala filed a motion to supplement the record literally the day of discovery of the articles.

EVIDENCE GOES DIRECTLY TO DATTALA'S PUBLIC POLICY ARGUMENT

In this case, the newspaper articles sought to supplement the record go directly to Dattala's public policy argument. Courts need to enforce existing laws, not ignore them, to address the crisis being reported in the July 13, 2023 articles.

Otherwise, the law will be that victims, like Dattala, lose while the participants in the fraudulent scheme win. If the decisions in Dattala's case are affirmed, title to stolen real estate is not void, in direct contravention of the law in NRS 111.025 and NRS 111.175. Again, statutes that are now 162 years old.

The result in this case shocks the intellectually honest jurist. The financial score card is Bursey, the fraudster received money from transferring title to real property which he obtained by fraud. Fraud through the use of Medina, a complicit notary who was WFG's agent. WFG itself stated "Lilian Medina is an independent notary / signing agent ..." [JA Vol 5, 1132:9-10] WFG's words, not Dattala's.

Specific factual findings, set forth below, are that Medina was an agent of WFG, she was within the scope of her agency when performing

the notarial acts which resulted in Dattala's loss of his ownership interest in the Subject Properties, and "WFG is liable for damages Dattala incurred as a result of Medina's negligence" [JA Vol 7,1546:8-18]

70. Medina at all relevant times was an employee or agent under the control of WFG.
71. Medina at all relevant times was either within the nature and scope of her employment as an employee of WFG or was acting as WFS's agent and was within the scope of her agency when performing the notarial acts described above.
72. Dattala is in the class of persons whom NRS 240.120(1)(d) is intended to protect and the injury to him is of the type against which NRS 240.120(1)(d) is intended to protect.
73. WFG is liable for damages Dattala incurred as a result of Medina's negligence under the doctrine of respondeat superior.

The public policy argument brought to the fore, and highlighted in the July 13, 2023 articles, is that there is a serious, ongoing crises in Nevada., which the instant case illustrates. The articles highlight the importance of

the court system enforcing NRS 111.025 and NRS 111.175.

When controlling statutes are ignored, the result is an incentive for fraudsters to obtain title to real property by fraud, then sell their fraudulently created interest using a title company to impute that everything associated with the sale is legal. When fraud is discovered and addressed immediately, the title company [WFG] is not held responsible despite the exact and specific finding, quoted above, that it is liable. And the successor titled owners [Precision Assets] and all owners after them get to keep the real property, as if there is NO title defect in the chain of title.

The only loser is the innocent victim. Dattala.

CONCLUSION

Dattala should be allowed to supplement the record on appeal given this new evidence of the increasing frequency of real estate fraud and thus the importance of his policy arguments and for the court to consider the implications of it's decision. WFG's own manager is a source in the articles for the statement that title companies can "ultimately thwart" fraud.

/s/ Benjamin B. Childs, Sr.
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CERTIFICATE OF SERVICE

APPELLANT'S REPLY TO OPPOSITIONS TO MOTION FOR
LEAVE TO SUPPLEMENT THE RECORD was served through the Nevada
Supreme Court File and Serve system to opposing counsel at filing on July
27, 2023. Electronic service is in lieu of mailing.

/s/ Benjamin B. Childs, Sr.

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