

COURT OF APPEALS OF ARKANSAS, DIVISION IV

Janet Fultz Johnson v. David L. Cohick, Jr., and Virginia Cohick

Johnson, 2025 Ark. App. 578 (Ark. Ct. App. 2025) · No. CV-24-621 · Decided December 3, 2025

SUMMARY

The Arkansas Court of Appeals reversed and remanded the dismissal of Janet Fultz Johnson’s ejectment action concerning ownership of certain real property. The court held that an earlier delivered but unrecorded 1992 warranty deed controlled because the later 1996 deed and subsequent conveyances were not made to bona fide purchasers for valuable consideration under Arkansas’s recording statute.

CASE DETAILS

COURT	Court of Appeals of Arkansas, Division IV
WRITING FOR THE COURT	Casey R. Tucker; Wood; Brown
JURISDICTION	Arkansas Court of Appeals, Division IV
DECIDED	December 3, 2025
DOCKET	CV-24-621
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Janet Fultz Johnson appealed the Carroll County Circuit Court's order determining that a 1996 warranty deed controlled ownership of the property and dismissing the plaintiffs' ejectment and damages complaint.
STANDARD OF REVIEW	The appellate court reviewed the trial court's factual findings for clear error or whether they were clearly against the preponderance of the evidence, while reviewing questions of law without deference.
PRECEDENTIAL VALUE	Published Arkansas Court of Appeals opinion
PARTIES	Janet Fultz Johnson v. David L. Cohick, Jr., Virginia Cohick

TOPICS

- ejectment
- deeds
- recording acts
- title disputes
- appellate procedure

PRACTICE AREAS

- real estate
- property law
- ejectment
- appellate procedure
- remedies

QUESTIONS PRESENTED

1. Whether the unrecorded 1992 warranty deed or the subsequently recorded 1996 warranty deed controlled title to the property.
2. Whether the 1996 deed and later deeds defeated the prior unrecorded deed under Arkansas's recording statute when the subsequent grantees gave no valuable consideration.

HOLDINGS

1. A validly delivered deed passes title between the parties even if the deed has not been recorded.
2. A subsequent deed does not defeat an earlier delivered but unrecorded deed under Arkansas Code Annotated section 14-15-404(b) unless the subsequent purchaser gave valuable consideration and lacked actual notice; a grantee who gave no consideration is not protected by the statute.
3. The 1992 warranty deed was the controlling deed because no bona fide purchaser for valuable consideration acquired title after its delivery, and the trial court did not rely on equitable defenses or equitable principles.

KEY QUOTATIONS

“The trial court clearly erred in finding that the 1996 Deed is the controlling deed.” (at 8)

“Accordingly, we find that the 1992 Deed is the controlling deed.” (at 9)

FACTUAL BACKGROUND

Jerry Fultz purchased the property in 1991 and, while unmarried, executed and delivered a 1992 warranty deed naming himself, his parents Dale and Lana Fultz, and his sister Janet as joint tenants with right of survivorship. The 1992 deed was not recorded until 2023. After Jerry married Joy Ann, he executed a 1996 deed conveying the property to himself and Joy Ann as tenants by the entireties, followed by later deeds involving the Cohicks; the parties stipulated that none of the later grantees were bona fide purchasers for valuable consideration. Lana and Janet sued for ejectment after the Cohicks occupied the property, and the trial court treated the 1996 deed as controlling.

PROCEDURAL HISTORY

Janet Johnson and her mother, Lana Sue Fultz, sued the Cohicks for ejectment and damages. The circuit court found the 1996 warranty deed to be the controlling instrument and dismissed the complaint. The Arkansas Court of Appeals reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded for proceedings consistent with the ruling that the 1992 deed is the controlling deed.

CASES CITED

- James v. Mounts, 2023 Ark. 53, at 8, 660 S.W.3d 801, 807
- Bauer v. Beamon, 2023 Ark. 194, at 9, 678 S.W.3d 782, 788
- O’Neal v. Love, 2015 Ark. App. 689, at 5, 476 S.W.3d 846, 850
- First Sec. Bank v. Geels, 2011 Ark. App. 294, at 4-5, 383 S.W.3d 437, 440
- Mehaffy v. Clark, 2022 Ark. App. 268, at 6, 646 S.W.3d 651, 654
- King v. Jackson, 2018 Ark. App. 570, 565 S.W.3d 118

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/arkansas-court-of-appeals-division-iv-court-of-appeals-of-arkansas-division-iv/2025/janet-fultz-johnson-v-david-l-cohick-jr-and-virginia-cohick-5b811lr5>