

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Spielman-Fond, Inc. v. Hanson's, Inc.

379 F. Supp. 997 (D. Ariz. 1973) · No. Civ. No. 72-417 Phx WEC · Decided December 17, 1973

SUMMARY

The court considered whether Arizona mechanics' and materialmen's lien statutes violated the Fourteenth Amendment's Due Process Clause by allowing liens to be filed without prior notice or hearing. It held that filing a lien did not deprive the property owners of possession or a significant property interest because the owners could continue using the property and could still sell it. The court entered judgment for the defendants on Count One and amended the judgment under Rule 54(b) to permit an immediate appeal.

CASE DETAILS

COURT	United States District Court for the District of Arizona
WRITING FOR THE COURT	Per curiam; Wallace, Circuit Judge; Craig, District Judge; Muecke, District Judge
JURISDICTION	Arizona
DECIDED	December 17, 1973
DOCKET	Civ. No. 72-417 Phx WEC
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs brought a declaratory and injunctive action under 42 U.S.C. § 1983 challenging Arizona mechanics' and materialmen's lien statutes as unconstitutional under the Fourteenth Amendment. A three-judge district court rejected the challenge as to Count One and entered final judgment under Federal Rule of Civil Procedure 54(b).
STANDARD OF REVIEW	Constitutional due process review of the challenged statutory lien procedures.
PRECEDENTIAL VALUE	Published federal district court opinion; persuasive authority within the federal judiciary and not binding precedent outside the court.
PARTIES	Spielman-Fond, Inc., et al. v. Hanson's, Inc., et al.

TOPICS

[due process](#)[section 1983](#)[civil rights](#)[real estate](#)[civil procedure](#)

PRACTICE AREAS

constitutional law

civil rights

real estate

construction law

civil procedure

QUESTIONS PRESENTED

1. Whether Arizona's mechanics' and materialmen's lien statutes, A.R.S. § 33-981 et seq., violate the Fourteenth Amendment's Due Process Clause by permitting a lien to be filed and recorded without prior notice or hearing to the property owner.

HOLDINGS

1. Arizona's mechanics' and materialmen's lien statutes do not violate due process by failing to provide notice and a hearing before a lien is filed because the lien does not take possession or use of the property and does not absolutely prohibit its sale.

KEY QUOTATIONS

"We conclude, therefore, that the filing of a mechanics' and materialmen's lien does not amount to a taking of a significant property interest, and that, accordingly, A.R.S. § 33-981 et seq. are not violative of due process of law under the Fourteenth Amendment for failing to provide for notice and hearing prior to the filing of the lien." (379 F. Supp. at 1000)

"If the plaintiffs can find a willing buyer, however, there is nothing in the statutes or the liens which prohibits the consummation of the transaction." (379 F. Supp. at 999)

FACTUAL BACKGROUND

Defendants furnished labor and materials for plaintiffs' development of a mobile home park and claimed they had not been paid. They recorded mechanics' and materialmen's liens against plaintiffs' property under Arizona law. Plaintiffs remained in continuous physical possession of the property and continued renting mobile home spaces to tenants who were unaware of the liens.

PROCEDURAL HISTORY

Defendants recorded mechanics' and materialmen's liens against plaintiffs' mobile home park property. Plaintiffs sought a declaration that A.R.S. § 33-981 et seq. violated due process because the statutes permitted lien filing without prior notice or hearing. The three-judge court ruled for defendants on Count One, later amended the judgment to clarify that the remaining counts and counterclaims would proceed before a single judge, and directed entry of a final Rule 54(b) judgment as to Count One.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand was ordered. The amended judgment resolved Count One in favor of defendants; the remaining counts and counterclaims were to proceed before a single district judge.

CASES CITED

- Sniadach v. Family Finance Corp. of Bay View, 395 U.S. 337 (1969)
- Goldberg v. Kelly, 397 U.S. 254 (1970)
- Boddie v. Connecticut, 401 U.S. 371 (1971)
- Fuentes v. Shevin, 407 U.S. 67 (1972)
- McClellan v. Commercial Credit Corp., 350 F. Supp. 1013 (D.R.I. 1972), aff'd, 409 U.S. 1120 (1973)
- Stanley v. Illinois, 405 U.S. 645 (1972)
- Bell v. Burson, 402 U.S. 535 (1971)
- Adams v. Egley, 338 F. Supp. 614 (S.D. Cal. 1972)
- Tindall v. Hardin, 337 F. Supp. 563 (W.D. Pa. 1972)
- White v. Minter, 330 F. Supp. 1194 (D. Mass. 1971)
- Davis v. Weir, 328 F. Supp. 317 (N.D. Ga. 1971)
- Crow v. California Department of Human Resources, 325 F. Supp. 1314 (N.D. Cal. 1970)
- Desmond v. Hatchey, 315 F. Supp. 328 (D. Me. 1970)
- Golliday v. Robinson, 305 F. Supp. 1224 (N.D. Ill. 1969)
- Shelley v. Kraemer, 334 U.S. 1 (1947)
- Buchanan v. Warley, 245 U.S. 60 (1917)
- Kass v. Lewin, 104 So. 2d 572 (Fla. 1958)