SUPREME COURT OF DELAWARE

Eastern Savings Bank, FSB v. CACH, LLC

124 A.3d 585 (Del. 2015) · Decided August 19, 2015

SUMMARY

The Delaware Supreme Court held that CACH, LLC's judgment lien had priority over Eastern Savings Bank's later-recorded mortgage under Delaware's pure race recording statute. The court declined to apply equitable subrogation to a mortgage refinancing absent a separate equitable basis and affirmed the Superior Court's judgment.

CASE DETAILS

COURT	Supreme Court of Delaware
WRITING FOR THE COURT	Vaughn, Justice; Holland; Seitz; Strine; Valihura; Vaughn
JURISDICTION	Delaware
DECIDED	August 19, 2015
DISPOSITION	affirmed
PROCEDURAL POSTURE	Eastern Savings appealed from the Superior Court's order affirming a Court of Common Pleas summary judgment ruling in favor of CACH in a dispute over the priority of liens and foreclosure-sale proceeds.
STANDARD OF REVIEW	The Supreme Court reviews the Superior Court's grant or denial of summary judgment de novo.
PRECEDENTIAL VALUE	Published Delaware Supreme Court opinion; precedential.
PARTIES	Eastern Savings Bank, FSB v. CACH, LLC

TOPICS

mortgages · foreclosure · real estate · remedies · appellate procedure

PRACTICE AREAS

real estate · mortgages · foreclosure · remedies · appellate procedure

QUESTIONS PRESENTED

1. Whether Delaware's pure race recording statute gave CACH priority over Eastern Savings because CACH recorded its judgment lien before Eastern Savings recorded its mortgage.

2. Whether equitable subrogation permitted Eastern Savings, a refinancing lender, to assume the priority of the preexisting liens that its loan proceeds satisfied.
3. Whether equitable subrogation should be applied absent a reasonable mistake, unjust enrichment, or another equitable basis, where the lender's title insurer or settlement agent failed to discover or address the intervening lien.

HOLDINGS

1. Under Delaware's pure race recording statute, competing mortgages and mortgage-like liens have priority according to the time of recording. Because CACH recorded its judgment lien eight days before Eastern Savings recorded its mortgage, CACH had priority.
2. Delaware does not permit a refinancing lender to use equitable subrogation to move ahead of an intervening judgment lien solely because the lender used its funds to pay preexisting mortgages and judgments.
3. CACH would not receive an unearned windfall by retaining its statutory priority because it did not agree to subordinate its judgment lien to Eastern Savings's later-recorded mortgage.

KEY QUOTATIONS

> *"Equitable subrogation is a doctrine that "allows one who has discharged the debt of another to succeed to the rights of the satisfied creditor.""* (590)

> *"The rule is first in time, first in right."* (590)

> *"We decline to extend the equitable doctrine's reach to such circumstances."* (592-593)

> *"We will not apply the doctrine of equitable subrogation to cure the failure of Eastern Savings' title insurer or settlement agent to ensure that Eastern Savings' was placed in a first lien position before completing the settlement process."* (593)

FACTUAL BACKGROUND

CACH recorded a judgment lien against Johnson's property on December 21, 2006. Two days earlier, Johnson and his wife had refinanced the property with Eastern Savings, executing a $168,000 mortgage; the loan proceeds paid five preexisting liens but did not pay CACH's judgment. Eastern Savings did not record its mortgage until December 29, 2006, eight days after CACH recorded its lien. After the property was sold at a sheriff's sale for $133,000, Eastern Savings received the proceeds and refused CACH's demand for payment.

PROCEDURAL HISTORY

CACH obtained and recorded a judgment lien against property owned by Aaron Johnson, Jr. Eastern Savings later recorded a mortgage arising from a refinancing transaction and used the loan proceeds to satisfy several preexisting liens, but not CACH's judgment lien. After the property was sold at a sheriff's sale and Eastern Savings retained the proceeds, CACH sued for misappropriation and unjust enrichment. Following earlier appellate proceedings and remand for consideration of equitable subrogation, the Court of Common Pleas rejected Eastern Savings's subrogation claim, and the Superior Court affirmed. The Supreme Court of Delaware affirmed the Superior Court.

DISPOSITION

affirmed

CASES CITED

- CACH, LLC v. E. Sav. Bank, FSB, 2011 WL 4730525, at *5 (Del. Super. Sept. 30, 2011)
- E. Sav. Bank, FSB v. CACH, LLC, 55 A.3d 344, 346, 351 (Del. 2012)
- E. Sav. Bank, FSB v. CACH, LLC, 2012 WL 9298300, at *1 (Del. Oct. 30, 2012)
- E. Sav. Bank, FSB v. CACH, LLC, 2014 WL 3827496, at *4-5 (Del. Super. July 31, 2014)
- ConAgra Foods, Inc. v. Lexington Ins. Co., 21 A.3d 62, 68 (Del. 2011)
- First Mortg. Co. v. Fed. Leasing Corp., 456 A.2d 794, 795 (Del. 1982)
- Reserves Dev. LLC v. Severn Sav. Bank, FSB, 2007 WL 4054231, at *17 (Del. Ch. Nov. 9, 2007), aff'd, 961 A.2d 521 (Del. 2008)
- Miller v. Stout, 5 Del. Ch. 259, 261 (1878)
- E. States Petroleum Co. v. Universal Oil Prods. Co., 44 A.2d 11, 15 (Del. Ch. 1945)
- Stoeckle v. Rosenheim, 87 A. 1006, 1007-08 (Del. Ch. 1913)
- Oldham v. Taylor, 2003 WL 21786217, at *2-5 (Del. Ch. Aug. 4, 2003)
- Nemec v. Shrader, 991 A.2d 1120, 1130 (Del. 2010)
- Chavin v. H.H. Rosin & Co., 246 A.2d 921, 922 (Del. 1968)
- Wells Fargo Bank, Minn., N.A. v. Ky. Fin. & Admin., Dep't of Revenue, 345 S.W.3d 800, 807-08 (Ky. 2011)
- Countrywide Home Loans, Inc. v. First Nat'l Bank of Steamboat Springs, N.A., 144 P.3d 1224, 1230 (Wyo. 2006)
- ABN AMRO Mortg. Grp. v. Kangah, 126 Ohio St. 3d 425, 934 N.E.2d 924, 927 (2010)
- Bank of America, N.A. v. Prestance Corp., 160 Wash. 2d 560, 160 P.3d 17, 23-24 (2007)
- Mortg. Elec. Registration Sys., Inc. v. Roberts, 366 S.W.3d 405, 411 (Ky. 2012)