SUPREME COURT OF CONNECTICUT

PNC Bank, N.A. v. Kelepecz, 289 Conn. 692

960 A.2d 563 (2008) · No. 18129 · Decided December 16, 2008

SUMMARY

The Supreme Court of Connecticut held that a judgment lien was enforceable despite the lien certificate's omission of the original judgment amount because the recorded information permitted a diligent third party to ascertain that amount from court records. The court also held that a subsequent encumbrancer lacked standing to challenge the lien based on alleged noncompliance with the statutory notice requirement directed to the judgment debtor. The judgment affirming the foreclosure priority determination was affirmed.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Vertefeuille, J.; Katz, J.; Palmer, J.; Zarella, J.; Sullivan, J.
JURISDICTION	Connecticut
DECIDED	December 16, 2008
DOCKET	18129
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a Connecticut Superior Court foreclosure-sale supplemental judgment determining lien and mortgage priorities; the appeal was transferred from the Appellate Court to the Supreme Court of Connecticut.
STANDARD OF REVIEW	Plenary review applies to the application of General Statutes § 52-380a to undisputed facts and to questions of subject matter jurisdiction and standing.
PRECEDENTIAL VALUE	Published Connecticut Supreme Court opinion; precedential.
PARTIES	Helen Szondy v. CB Richard Ellis, Inc., Nancy I. Powell

TOPICS

foreclosure · title disputes · statutory interpretation · standing · subject matter jurisdiction

PRACTICE AREAS

real estate foreclosure statutory interpretation civil procedure

QUESTIONS PRESENTED

1. Whether a judgment lien certificate is invalid and unenforceable against a subsequent encumbrancer because it omits the original amount of the money judgment required by General Statutes § 52-380a(a).
2. Whether a subsequent encumbrancer has standing to challenge a judgment lien based on the lienor's alleged failure to provide notice to the judgment debtor under General Statutes § 52-351a.

HOLDINGS

1. A judgment lien is not invalid or unenforceable merely because its certificate omits the original amount of the secured money judgment, when the information recorded is sufficient to enable a person exercising common prudence and ordinary diligence to ascertain the amount from the identified court records.
2. A subsequent encumbrancer lacks standing to challenge a judgment lien based on the lienor's alleged failure to provide notice of the lien filing to the judgment debtor under § 52-351a, because the statute protects the judgment debtor and does not confer a protected interest on a later encumbrancer.

KEY QUOTATIONS

> *"The purpose of the notice requirement is to prevent subsequent third parties from being defrauded or otherwise misled by inaccuracies and omissions in the record that conceal the true nature of the secured obligation."* (at 568-569)

> *"The narrow holding of Mac's Car City, Inc., is inapposite with regard to the present case, wherein we have concluded that the omission of the judgment amount from the lien certificate is not a sufficient reason to invalidate the lien where it is challenged by a third party who had sufficient information available on the face of the lien certificate to discover the amount of the judgment secured by the lien."* (at 570)

> *"If a party is found to lack standing, the court is without subject matter jurisdiction to determine the cause."* (at 571)

FACTUAL BACKGROUND

George S. Kelepecz owned real property in Fairfield, Connecticut, that had been mortgaged to PNC's predecessor. CB Commercial Real Estate Group, later known as CB Richard Ellis, obtained a money judgment against Kelepecz in 1992 and recorded a judgment lien on the property, but the lien certificate omitted the original amount of the judgment. Nancy I. Powell and Helen Szondy later recorded mortgages on the property. After foreclosure by sale, the trial court awarded the remaining proceeds to Ellis ahead of Powell and Szondy, and Szondy challenged Ellis's lien based on the omitted judgment amount and alleged failure to notify Kelepecz of the lien filing.

PROCEDURAL HISTORY

PNC Bank brought a mortgage foreclosure action involving the mortgaged property and several subsequent encumbrancers. After a foreclosure by sale, the Superior Court determined the priority of the claims, placing PNC's mortgage first, Ellis's judgment lien second, and Powell's mortgage third. Szondy appealed, challenging the validity and priority of Ellis's judgment lien and the priority of Powell's mortgage; the Appellate Court transferred the appeal to the Supreme Court. The Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Lindholm v. Brant, 283 Conn. 65, 925 A.2d 1048 (2007)
- Charles v. Charles, 243 Conn. 255, 701 A.2d 650 (1997), cert. denied, 523 U.S. 1136, 118 S. Ct. 1838, 140 L. Ed. 2d 1089 (1998)
- Hobbs v. Simmonds, 61 Conn. 235, 23 A. 962 (1891)
- Mac's Car City, Inc. v. DiLoreto, 238 Conn. 172, 679 A.2d 340 (1996)
- Beardsley v. Beecher, 47 Conn. 408 (1879)
- Cowles v. Bacon, 21 Conn. 451 (1852)
- Connecticut National Bank v. Lorenzato, 221 Conn. 77, 602 A.2d 959 (1992)
- Dart & Bogue Co. v. Slosberg, 202 Conn. 566, 522 A.2d 763 (1987)
- Connecticut National Bank v. Esposito, 210 Conn. 221, 554 A.2d 735 (1989)
- Andross v. West Hartford, 285 Conn. 309, 939 A.2d 1146 (2008)
- Edgewood Village, Inc. v. Housing Authority, 265 Conn. 280, 828 A.2d 52 (2003), cert. denied, 540 U.S. 1180, 124 S. Ct. 1416, 158 L. Ed. 2d 82 (2004)
- First Interstate Bank of Washington, N.A. v. Westcap Forest Products, Inc., 74 Wash. App. 900, 876 P.2d 475 (1994)
- Hull v. D. Irvin Transport, Ltd., 213 Mont. 75, 690 P.2d 414 (1984)
- Strawberry Growers' Selling Co. v. Lewellyn, 158 La. 303, 103 So. 823 (1925)
- Galloway v. Levitt, 135 So. 2d 798 (La. App. 1961)
- Gilkerson-Sloss Commission Co. v. Bond & Williams, 44 La. Ann. 841, 11 So. 220 (1892)