

DISTRICT OF COLUMBIA COURT OF APPEALS

Fidelity National Title Insurance Company of New York v. Tillerson

2 A.3d 198 (D.C. 2010) · No. 08-CV-1220 · Decided August 19, 2010

SUMMARY

The District of Columbia Court of Appeals held that a judgment creditor's motion to execute a money judgment did not reopen the underlying case or trigger the District's lis pendens recording statute. Because the creditor properly recorded the final judgment under D.C. Code § 15-102(a) before the mortgage creditors obtained their interests, the judgment lien had priority. The court affirmed the trial court's order authorizing sale of the property to satisfy the judgment.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Kramer, Associate Judge; Fisher, Associate Judge; Blackburne-Rigsby, Associate Judge
JURISDICTION	District of Columbia
DECIDED	August 19, 2010
DOCKET	08-CV-1220
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a Superior Court order granting Tillerson's motion for aid in execution of a writ of fieri facias and determining that his recorded judgment lien had priority over the security interests of EMC Mortgage Corporation and Fidelity.
STANDARD OF REVIEW	De novo review of the trial court's construction of the lis pendens statute and other questions of law.
PRECEDENTIAL VALUE	Published, precedential opinion of the District of Columbia Court of Appeals.
PARTIES	Fidelity National Title Insurance Company of New York, EMC Mortgage Corporation v. George E. Tillerson, III

TOPICS

- lis pendens
- recording acts
- title disputes
- real estate
- civil procedure

PRACTICE AREAS

real estate

title and lien priority

civil procedure

statutory interpretation

judgment enforcement

QUESTIONS PRESENTED

1. Whether a motion for aid in execution of a writ of fieri facias reopens a concluded case so that the litigation becomes pending for purposes of the District of Columbia lis pendens statute, D.C. Code § 42-1207.
2. Whether Tillerson's failure to record a specific description or address of the property under the lis pendens statute subordinated his judgment lien to the later security interests of EMC and Fidelity.
3. Whether Tillerson's judgment lien, recorded under D.C. Code § 15-102(a), had priority over the later-acquired security interests.

HOLDINGS

1. A motion for aid in execution of a writ of fieri facias is an attempt to execute a final judgment and does not reopen the concluded litigation or cause it to become pending for purposes of D.C. Code § 42-1207.
2. Tillerson properly recorded his judgment lien under D.C. Code § 15-102(a), and because his lien was recorded before EMC and Fidelity acquired their interests, it was superior under the first-in-time rule.

KEY QUOTATIONS

“When litigation has concluded and a final judgment has been rendered, as here, § 15-102 controls.” (2 A.3d at 202)

“The motion in question here is simply an attempt to execute that final judgment, not to re-open the litigation.” (2 A.3d at 203)

FACTUAL BACKGROUND

Tillerson obtained a \$727,315 monetary judgment against Rufus Stancil in 2000 and recorded it in the general index of the Recorder of Deeds. In 2007, Tillerson sought execution against property owned by Stancil, but Stancil conveyed the property to his wife for no consideration before the marshal could seize it. The wife subsequently obtained a loan secured by the property, giving EMC and Fidelity security interests. The trial court found the conveyance fraudulent and concluded that Tillerson's previously recorded judgment lien had priority.

PROCEDURAL HISTORY

Tillerson obtained a monetary judgment against Rufus Stancil in 2000 and recorded the judgment in the Recorder of Deeds' general index. After discovering that Stancil owned the property, Tillerson sought a writ of fieri facias to execute the judgment. Stancil conveyed the property to his wife, who then obtained a loan secured by a deed of trust in favor of EMC and insured by Fidelity. The Superior Court found the conveyance fraudulent, held that Tillerson's interest was superior, and authorized seizure and sale of the property. The District of Columbia Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Trustee 1245 13th Street, NW # 608 v. Edwin Anderson, 905 A.2d 181, 183 n.2 (D.C. 2006)
- First Atlantic Guaranty Corp. v. Tillerson, 916 A.2d 153 (D.C. 2007)
- Alcazar Tenants' Association v. Smith Property Holdings, 981 A.2d 1202, 1205 (D.C. 2009)
- Slater v. Biehl, 793 A.2d 1268, 1271 (D.C. 2002)
- District of Columbia v. Franklin Investment Co., 404 A.2d 536, 540 (D.C. 1979)
- Consumers United Insurance Co. v. Smith, 644 A.2d 1328, 1358 (D.C. 1994)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/district-of-columbia-district-of-columbia-court-of-appeals/2010/fidelity-national-title-insurance-company-of-new-york-v-77p76472>