

COURT OF APPEALS OF THE SIXTH APPELLATE DISTRICT OF TEXAS AT
TEXARKANA

Reverse Mortgage Funding, LLC v. Carla Nagle Blevins Robertson

No. 06-19-00063-CV (Tex. App.—Texarkana Jan. 3, 2020) · No. No. 06-19-00063-CV · Decided January 3, 2020

SUMMARY

The Texas Court of Appeals affirmed a default judgment declaring that Carla Nagle Blevins Robertson owned the disputed property and that reverse mortgage deeds of trust were void. The court held that Reverse Mortgage Funding, LLC failed to establish a prima facie meritorious defense under the Craddock standard because its motion for new trial contained only conclusory assertions that it was a bona fide mortgagee without actual or constructive notice. The court therefore affirmed the trial court’s denial of the motion for new trial.

CASE DETAILS

COURT	Court of Appeals of the Sixth Appellate District of Texas at Texarkana
WRITING FOR THE COURT	Ralph K. Burgess; Chief Justice Morriss; Justice Burgess; Justice Stevens
JURISDICTION	Texas
DECIDED	January 3, 2020
DOCKET	No. 06-19-00063-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Reverse Mortgage Funding, LLC appealed the denial by operation of law of its motion for new trial after the trial court entered a default judgment in Robertson's quiet-title action.
STANDARD OF REVIEW	Abuse of discretion applies to review of the denial of a motion for new trial following a default judgment. Whether the motion sets up a meritorious defense is a legal question, and the court considers the facts alleged in the motion and supporting affidavit regardless of whether those facts are controverted.
PRECEDENTIAL VALUE	Published Texas intermediate appellate opinion
PARTIES	Reverse Mortgage Funding, LLC v. Carla Nagle Blevins Robertson

TOPICS

default judgment

motion for new trial

affirmative defenses

title disputes

standard of review

PRACTICE AREAS

Civil procedure

Real property

Probate

Remedies

QUESTIONS PRESENTED

1. Whether RMF was entitled to a new trial under the Craddock standard after the default judgment.
2. Whether RMF's motion for new trial set up a prima facie meritorious defense by alleging that RMF was a bona fide mortgagee without actual or constructive notice of Robertson's ownership claim.

HOLDINGS

1. A defaulting party seeking a new trial must establish that the failure to answer was not intentional or the result of conscious indifference, that the motion sets up a meritorious defense, and that granting a new trial would not delay or injure the plaintiff.
2. A motion for new trial must allege facts that would constitute a legal defense to the plaintiff's claim and must support those allegations with affidavits or other evidence establishing prima facie that the defendant has the defense.
3. RMF failed to establish a prima facie bona fide-mortgagee defense because its motion did not allege supporting facts showing that it lacked actual or constructive notice of Robertson's claim to the property.

KEY QUOTATIONS

“The motion must allege facts which in law would constitute a defense to the cause of action asserted by the plaintiff and must be supported by affidavits or other evidence proving prima facie that the defendant has such meritorious defense.” (at 3)

“Yet, ‘in legal parlance, actual knowledge embraces those things of which the one sought to be charged has express information, and likewise those things which a reasonably diligent inquiry and exercise of the means of information at hand would have disclosed.’” (at 5)

“Because no such allegations appear in RMF’s motion for new trial, it failed to establish a prima facie meritorious defense.” (at 6)

FACTUAL BACKGROUND

Richard R. Nagle's will devised a life estate in property at 1201 Pinehill Drive to his wife, Katie Maurine Nagle, with the property to pass to his daughters, Carla Blevins Robertson and Julie Hamm, upon Katie's death. In 2008, Katie obtained a reverse mortgage secured by deeds of trust on the property, and the mortgage was later assigned to Reverse Mortgage Funding, LLC. After Katie died in March 2019, Robertson sued to quiet title, asserting that Katie had possessed only a life estate and therefore could not validly encumber the property.

PROCEDURAL HISTORY

Robertson filed suit to quiet title after the death of Katie Maurine Nagle, alleging that Nagle held only a life estate and lacked authority to encumber the property with a reverse mortgage. RMF failed to timely answer, and the trial court entered a default judgment declaring Robertson the fee-simple owner and the deeds of trust void. RMF moved for a new trial; the trial court announced that it would deny the motion, but no written order was entered, so the motion was overruled by operation of law. The court of appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Action Powersports, Inc. v. 1STEL, Inc., 500 S.W.3d 632, 639 (Tex. App.—Texarkana 2016, no pet.)
- Director, State Employees Workers' Compensation Div. v. Evans, 889 S.W.2d 266, 268, 270 (Tex. 1994)
- Bank One, Tex., N.A. v. Moody, 830 S.W.2d 81, 82–83 (Tex. 1992)
- Craddock v. Sunshine Bus Lines, 133 S.W.2d 124, 126 (Tex. 1939)
- Estate of Pollack v. McMurrey, 858 S.W.2d 388, 392 (Tex. 1993)
- Ivy v. Carrell, 407 S.W.2d 212, 214 (Tex. 1966)
- Comanche Nation v. Fox, 128 S.W.3d 745, 751 (Tex. App.—Austin 2004, no pet.)
- Guar. Bank v. Thompson, 632 S.W.2d 338, 339 (Tex. 1982)
- George v. Smith, No. 06-01-00019-CV, 2002 WL 91355, at *4 n.2 (Tex. App.—Texarkana Jan. 25, 2002, no pet.) (mem. op.)
- Noble Mortg. & Invs., LLC v. D & M Vision Invs., LLC, 340 S.W.3d 65, 76 (Tex. App.—Houston [1st Dist.] 2011, no pet.)
- Houston First Am. Sav. v. Musick, 650 S.W.2d 764, 769 (Tex. 1983)
- Graves v. Guar. Bond State Bank, 161 S.W.2d 118, 120 (Tex. App.—Texarkana 1942, no writ)
- Madison v. Gordon, 39 S.W.3d 604, 606 (Tex. 2001)
- Champlin Oil & Ref. Co. v. Chastain, 403 S.W.2d 376, 388 (Tex. 1965)
- Hexter v. Pratt, 10 S.W.2d 692, 693 (Tex. Comm'n App. 1928, judgm't adopted)
- Sw. Title Ins. Co. v. Woods, 449 S.W.2d 773, 774 (Tex. 1970)
- Hue Nguyen v. Chapa, 305 S.W.3d 316, 323 (Tex. App.—Houston [14th Dist.] 2009, pet. denied)