

SUPREME COURT OF UTAH

Martin v. Kristensen

2021 UT 17 (2021) · No. 20190797 · Decided May 27, 2021

SUMMARY

The Utah Supreme Court affirmed a judgment awarding Frank Kristensen treble damages, attorney fees, and costs against Yvonne Martin for unlawful detainer. The court held that temporary possession orders entered in the divorce proceeding protected Martin from eviction during the litigation but did not preclude statutory unlawful-detainer remedies upon a final judgment. The court also concluded that Martin's prolonged possession after expiration of a five-day notice supported the damages award under Utah's unlawful-detainer statute.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Associate Chief Justice Lee; Chief Justice Durrant; Justice Pearce; Justice Petersen; Judge Angela Fonnesbeck
JURISDICTION	Utah
DECIDED	May 27, 2021
DOCKET	20190797
DISPOSITION	affirmed
PROCEDURAL POSTURE	Yvonne Martin petitioned for certiorari review of the Utah Court of Appeals' affirmance of a district court judgment holding her liable for unlawful detainer and awarding treble damages, attorney fees, and costs.
STANDARD OF REVIEW	On certiorari review, the Supreme Court applies the same standard of review that the court of appeals would apply to the district court's decision. Questions of law concerning the effect of temporary possession orders on unlawful-detainer remedies are reviewed de novo.
PRECEDENTIAL VALUE	published and precedential Utah Supreme Court opinion
PARTIES	Yvonne Martin v. Frank O. Kristensen

TOPICS

eviction

landlord tenant

real estate

appellate procedure

statutory interpretation

PRACTICE AREAS

real estate

landlord-tenant law

civil procedure

remedies

family law

QUESTIONS PRESENTED

1. Whether temporary possession orders entered in a divorce proceeding made Martin's continued possession lawful in a manner that foreclosed Frank's statutory remedies for unlawful detainer.
2. Whether temporary possession orders precluded the accrual or award of treble damages and other statutory remedies for unlawful detainer.
3. Whether equitable or public-policy considerations authorized the court to withhold or reduce the statutorily mandated treble damages.

HOLDINGS

1. Temporary possession orders entered in a divorce proceeding function like temporary possession orders in an unlawful-detainer proceeding: they protect the tenant from eviction during the litigation but do not foreclose the landlord's statutory remedies if the landlord ultimately obtains a final judgment for unlawful detainer.
2. When a tenant is found to have committed unlawful detainer, Utah Code section 78B-6-811 mandates an award of three times the assessed damages and reasonable attorney fees; a prior temporary possession order does not eliminate or suspend those remedies.
3. The court may not override or reduce the statutorily mandated treble damages on public-policy or equitable grounds.

KEY QUOTATIONS

“We hold that the possession orders in the divorce proceeding functioned like a temporary possession order in an unlawful detainer proceeding—they precluded the tenant’s eviction from the property but did not affect the availability of statutory remedies for unlawful detainer.” (¶ 2)

“Such an order may make the tenant’s possession lawful during the pendency of the unlawful detainer proceeding. But the full panoply of statutory remedies remains available to the landlord upon entry of final judgment.” (¶ 23)

“But they are the remedy provided by statute. And our court has no equitable power to override that remedy on public policy grounds.” (¶ 53)

FACTUAL BACKGROUND

Yvonne Martin and Petter Kristensen lived in a Salt Lake City home that Martin transferred to Petter's father, Frank Kristensen, in 2004; the couple continued living there under a tenancy at will without paying rent. After Martin filed for divorce, the divorce court entered orders granting her temporary use and possession of the home. Frank had previously served Martin with a five-day notice to vacate and filed an unlawful detainer action when

she remained. A jury rejected Martin's claim that the transfer to Frank was procured by duress, and the district court awarded Frank treble damages, attorney fees, and costs for Martin's continued possession through October 2015.

PROCEDURAL HISTORY

Martin received temporary possession orders in her divorce proceeding concerning a home owned by Frank Kristensen. Frank separately pursued an unlawful detainer action, and the unlawful detainer and quiet-title proceedings were consolidated. A jury rejected Martin's duress claim concerning the transfer of the home, and the district court found unlawful detainer beginning five days after Frank's notice to vacate. After a damages trial, the court entered a final judgment of \$900,663.26, including treble damages, attorney fees, and costs. The Utah Court of Appeals affirmed, and the Utah Supreme Court granted certiorari and affirmed.

DISPOSITION

affirmed

CASES CITED

- Utah Optical Co. v. Keith, 56 P. 155, 158 (Utah 1899)
- Est. of Fauchaux v. City of Provo, 2019 UT 41, ¶ 9, 449 P.3d 112
- Manzanares v. Byington (In re Adoption of Baby B.), 2012 UT 35, ¶ 41, 308 P.3d 382
- Martin v. Kristensen, 2019 UT App 127, ¶¶ 37-40, 450 P.3d 66
- Osguthorpe v. Wolf Mountain Resorts, L.C., 2010 UT 29, ¶¶ 22-23, 232 P.3d 999
- Mountain States Tel. & Tel. Co. v. Atkin, Wright & Miles, Chartered, 681 P.2d 1258, 1262 (Utah 1984)
- Buchanan v. Crites, 150 P.2d 100, 102 (Utah 1944)
- Carteri v. Roberts, 73 P. 818, 819 (Cal. 1903)
- Coinmach (Vending) Corp. v. Aspenwood Apartment Corp., 417 S.W.3d 909, 915 (Tex. 2013)
- Valley Lane Corp. v. Bowen, 592 P.2d 589, 592 (Utah 1979)
- Sovereign v. Meadows, 595 P.2d 852, 853 (Utah 1979)