

SUPREME COURT OF FLORIDA

City of Palm Bay v. Wells Fargo Bank, N.A.

114 So. 3d 924 (Fla. 2013) · Decided May 16, 2013

SUMMARY

The Florida Supreme Court held that a Palm Bay ordinance granting municipal code-enforcement liens priority over previously recorded mortgages was invalid because it conflicted with Florida’s statutory scheme governing lien priority. The court concluded that municipal home-rule powers do not authorize a municipality to create exceptions to or override controlling state law and answered the certified question in the negative.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Canady, J.; Canady; Polston; Lewis; Quince; Labarga; Perry; Pariente
JURISDICTION	Florida
DECIDED	May 16, 2013
DISPOSITION	approved
PROCEDURAL POSTURE	The City of Palm Bay sought review of a decision by the Fifth District Court of Appeal holding invalid a municipal ordinance provision granting municipal code-enforcement liens superpriority over previously recorded mortgages. The Fifth District certified a question of great public importance concerning the City's authority to enact the provision, and the Supreme Court of Florida accepted jurisdiction.
STANDARD OF REVIEW	De novo review of the validity of a municipal ordinance and the certified question of law.
PRECEDENTIAL VALUE	Published Florida Supreme Court decision; binding precedent in Florida.
PARTIES	City of Palm Bay v. Wells Fargo Bank, N.A.

TOPICS

- municipal law
- home rule
- preemption
- municipal finance
- recording acts

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Article VIII, section 2(b), of the Florida Constitution and sections 166.021 and 162.09, Florida Statutes, authorize a municipality to enact an ordinance granting code-enforcement liens superpriority over prior recorded mortgages.
2. Whether Palm Bay's ordinance superpriority provision is invalid because it conflicts with Florida's statutory scheme governing the priority of interests in real property.

HOLDINGS

1. A municipality may not enact an ordinance granting its code-enforcement liens priority over prior recorded mortgages when that priority conflicts with Florida's statutory scheme governing the priority of interests in real property.
2. The Legislature's creation of exceptions to a statutory scheme does not authorize municipalities to create their own exceptions to that scheme.

KEY QUOTATIONS

“Municipal ordinances are inferior to laws of the state and must not conflict with any controlling provision of a statute.” (at 928)

“The power to create exceptions to a legislative scheme is the power to alter that legislative scheme.” (at 929)

“In this context, concurrent power does not mean equal power.” (at 929)

FACTUAL BACKGROUND

Palm Bay Ordinance 97-07 provided that code-enforcement liens created pursuant to a code-enforcement-board order and recorded in the public records would be coequal with tax liens and superior to all other liens, titles, and claims. Wells Fargo held a mortgage recorded before the City's code-enforcement lien. The City contended that its municipal home-rule powers authorized it to grant the code-enforcement lien priority over the previously recorded mortgage.

PROCEDURAL HISTORY

The Fifth District initially held that Palm Bay's ordinance conflicted with state law and that the City's lien did not have priority over Wells Fargo's mortgage, which had been recorded before the City's lien. The district court certified the municipal-home-rule question to the Florida Supreme Court. The Supreme Court approved the Fifth District's determination and answered the certified question in the negative.

DISPOSITION

approved

CASES CITED

- City of Palm Bay v. Wells Fargo Bank, N.A., 57 So. 3d 226 (Fla. 5th DCA 2011)
- City of Palm Bay v. Wells Fargo Bank, N.A., 67 So. 3d 271, 271 (Fla. 5th DCA 2011) (mem.)
- City of Hollywood v. Mulligan, 934 So. 2d 1238, 1243 (Fla. 2006)
- Barragan v. City of Miami, 545 So. 2d 252, 254-55 (Fla. 1989)
- Thomas v. State, 614 So. 2d 468, 470 (Fla. 1993)
- Argent Mortgage Co., LLC v. Wachovia Bank N.A., 52 So. 3d 796 (Fla. 5th DCA 2010)
- Van Eepoel Real Estate Co. v. Sarasota Milk Co., 100 Fla. 438, 129 So. 892 (1930)

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