

COURT OF APPEALS OF TEXAS, SECOND DISTRICT, FORT WORTH

Flora Xanthine Alexander v. Wells Fargo Bank, N.A.

No. 02-12-00218-CV · No. No. 02-12-00218-CV · Decided January 10, 2013

SUMMARY

The Second District Court of Appeals of Texas affirmed a county court at law judgment awarding Wells Fargo Bank immediate possession of property following foreclosure. The court held that the appellant’s challenges to the foreclosure, note ownership, title, and evidentiary matters were not cognizable in a forcible detainer action, and that several issues were inadequately briefed.

CASE DETAILS

COURT	Court of Appeals of Texas, Second District, Fort Worth
WRITING FOR THE COURT	Per Curiam; McCoy, J.; Livingston, C.J.; Gabriel, J.
JURISDICTION	Texas
DECIDED	January 10, 2013
DOCKET	No. 02-12-00218-CV
DISPOSITION	affirmed
PROCEDURAL POSTURE	Alexander appealed to the county court at law from a justice court judgment in a forcible detainer action. After the county court at law found Wells Fargo entitled to possession, Alexander appealed to the Court of Appeals.
STANDARD OF REVIEW	The court reviewed whether Alexander presented cognizable and adequately briefed issues and whether the record showed reversible error.
PRECEDENTIAL VALUE	Unpublished memorandum opinion
PARTIES	Flora Xanthine Alexander v. Wells Fargo Bank, N.A.

TOPICS

- eviction
- appellate procedure
- preservation of error
- real estate
- remedies

PRACTICE AREAS

- Real estate litigation
- Civil procedure
- Appellate procedure
- Mortgage foreclosure

QUESTIONS PRESENTED

1. Whether Alexander's challenges to the legality of the foreclosure, ownership of the mortgage note, validity of the debt and loan documents, and authenticity of the original note could be considered in a forcible detainer appeal.
2. Whether Alexander adequately briefed her third, fifth, and seventh appellate issues.
3. Whether Alexander preserved her due-process and evidentiary complaints by obtaining rulings on her motions or objections.
4. Whether the county court at law erred in awarding Wells Fargo possession.

HOLDINGS

1. A forcible detainer action determines only which party has the immediate right to possession of real property; alleged defects in the foreclosure process or the purchaser's title must be pursued, if at all, in a separate wrongful-foreclosure or title action.
2. Issues lacking discernable legal arguments are inadequately briefed and may be overruled under Texas Rule of Appellate Procedure 38.1(f); pro se litigants are held to the same briefing standards as licensed attorneys.
3. An appellate complaint is not preserved when the record does not show that the appellant obtained a ruling on the motion or objection at issue.

KEY QUOTATIONS

“A forcible detainer action is the procedure by which the right to immediate possession of real property is determined.” (3)

“The action is intended to be a speedy, simple, and inexpensive means to obtain possession without resorting to an action on the title.” (4)

“any defects in the foreclosure process or the purchaser’s title to the property must be pursued, if at all, in a separate suit for wrongful foreclosure and may not be considered in a forcible detainer action” (5)

FACTUAL BACKGROUND

Wells Fargo purchased Alexander's residence at a foreclosure sale on February 7, 2012, after previously obtaining summary judgment in a declaratory action allowing it to foreclose its real property lien. Wells Fargo then filed a forcible detainer petition alleging that Alexander and the other occupants were wrongfully possessing the property. The justice court and county court at law awarded or upheld Wells Fargo's right to immediate possession.

PROCEDURAL HISTORY

Wells Fargo previously obtained summary judgment in a declaratory action authorizing foreclosure of its lien on Alexander's residence. After Wells Fargo purchased the property at a foreclosure sale, it brought a forcible detainer action in justice court and obtained a judgment for possession. The county court at law affirmed or

otherwise upheld Wells Fargo's right to possession, and the court of appeals affirmed the county court's judgment.

DISPOSITION

affirmed

CASES CITED

- Alexander v. Wells Fargo Bank, N.A. (Alexander I), No. 02-10-00005-CV, 2011 WL 1331519, at *1 (Tex. App.—Fort Worth Apr. 7, 2011, pet. denied) (mem. op.)
- Cattin v. Highpoint Vill. Apartments, 26 S.W.3d 737, 738–39 (Tex. App.—Fort Worth 2000, pet. dismiss'd w.o.j.)
- Williams v. Bank of N.Y. Mellon, 315 S.W.3d 925, 927 (Tex. App.—Dallas 2010, no pet.)
- Shutter v. Wells Fargo Bank, N.A., 318 S.W.3d 467, 470–71 (Tex. App.—Dallas 2010, pet. dismiss'd w.o.j.)
- Branch v. Fannie Mae, No. 02-11-00355-CV, 2012 WL 3030525, at *1 (Tex. App.—Fort Worth July 26, 2012, no pet.) (mem. op.)
- Valadez v. Avitia, 238 S.W.3d 843, 845 (Tex. App.—El Paso 2007, no pet.)
- Olaoye v. Wells Fargo Bank, N.A., No. 02-11-00263-CV, 2012 WL 2344846, at *2 (Tex. App.—Fort Worth June 21, 2012, no pet.) (mem. op.)