

COURT OF APPEALS OF OHIO, NINTH JUDICIAL DISTRICT

Smith v. Warner

2021-Ohio-4351 (Ohio Ct. App. 2021) · No. 20CA011653 · Decided December 13, 2021

SUMMARY

The Ninth District Court of Appeals of Ohio dismissed David Smith’s appeal as moot. Smith sought declaratory and quiet-title relief concerning lien priority and property-sale proceeds after funds stolen from him were used toward the purchase of the property. The court concluded that the property had been sold, the proceeds distributed, and Wells Fargo’s mortgage released, leaving no live controversy.

CASE DETAILS

COURT	Court of Appeals of Ohio, Ninth Judicial District
WRITING FOR THE COURT	Jennifer Hensal, Presiding Judge; Carr, Judge; Teodosio, Judge
JURISDICTION	Ohio
DECIDED	December 13, 2021
DOCKET	20CA011653
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal from a judgment of the Lorain County Court of Common Pleas granting Wells Fargo Bank, N.A. summary judgment in an action for declaratory judgment and quiet title; Wells Fargo moved to dismiss the appeal as moot based on post-judgment events.
STANDARD OF REVIEW	The appellate court independently reviewed whether a live controversy remained and whether the appeal was moot based on events occurring after the trial court's judgment.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	David Smith v. Roy Warner, et al., Wells Fargo Bank, N.A.

TOPICS

- mootness
- appellate procedure
- summary judgment
- declaratory judgment
- quiet title

PRACTICE AREAS

- Appellate procedure
- Civil procedure
- Real estate
- Remedies

QUESTIONS PRESENTED

1. Whether the appeal remained a live controversy after Smith conveyed the property to third parties, the sale proceeds were distributed, and Wells Fargo released its mortgage.
2. Whether Smith could obtain relief concerning lien priority, quiet title, or the distribution of sale proceeds within the scope of his complaint after those post-judgment events.

HOLDINGS

1. An appeal must be dismissed as moot when outside events eliminate the parties' interests and make it impossible for the court to grant effective relief. Because Smith conveyed his interest in the property, the sale proceeds were distributed, and Wells Fargo no longer had a claim against the property, no live controversy remained.
2. Smith's request for a declaration establishing priority of his alleged liens or claims was moot because he conveyed all rights or interests he had in the property. His quiet-title request was also moot because title had been quieted in his favor in the related criminal action and Wells Fargo had subsequently released its mortgage.
3. The request for a declaration concerning the proceeds of any sale was moot because the property had already been sold and the proceeds distributed. The proposed relief concerning whether Wells Fargo's mortgage should have had priority and recovery of alleged overpayments was beyond the scope of Smith's complaint and could not preserve a live controversy in this appeal.

KEY QUOTATIONS

“No actual controversy exists where a case has been rendered moot by an outside event.” (¶ 6)

“We, therefore, conclude that there is no live controversy between the parties and that the appeal must be dismissed as moot.” (¶ 11)

FACTUAL BACKGROUND

The husband of Smith's stepdaughter stole \$50,000 from Smith and used it as a down payment on a house, financing the balance with a bank loan. Wells Fargo later obtained the mortgage from the originating bank. Smith sought declarations that his alleged liens or claims had priority over the mortgage, quiet title, and a declaration concerning distribution of sale proceeds. During the litigation, the property was transferred to Smith, sold to third parties, the sale proceeds were distributed, and Wells Fargo released its mortgage.

PROCEDURAL HISTORY

Smith filed a declaratory judgment and quiet-title action against the husband of his stepdaughter and Wells Fargo, alleging that his claims or liens on property purchased with stolen funds had priority over Wells Fargo's mortgage. After discovery, the trial court granted Wells Fargo summary judgment, finding that Smith had not shown an interest in the property when he filed the complaint and that no real controversy existed. While the appeal was pending, the property was transferred to Smith, sold to third parties, and Wells Fargo's mortgage was released; the appellate court granted Wells Fargo's motion to dismiss and dismissed the appeal as moot.

DISPOSITION

dismissed

CASES CITED

- Tschantz v. Ferguson, 57 Ohio St.3d 131, 133 (1991)
- Miner v. Witt, 82 Ohio St. 237 (1910), syllabus
- Bankers Trust Co. of California, N.A. v. Tutin, 9th Dist. Summit No. 24329, 2009-Ohio-1333, ¶ 6

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