UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA

United States v. A Fee Simple Parcel of Real Property Situated in the City of Bal Harbour, State of Florida

650 F. Supp. 1534 (E.D. La. 1987) · No. Civ. A. No. 86-0161 · Decided January 12, 1987

SUMMARY

The court adjudicated the government's forfeiture action against a Bal Harbour, Florida condominium allegedly purchased with proceeds from drug trafficking under 21 U.S.C. § 881(a)(6). It held that Robert Seraydar lacked innocent-owner status, while Pan American Bank was an innocent lienholder entitled to recover $38,000 from the property proceeds. The court also partially granted the government's equitable counterclaim against Seraydar and ordered release of a lis pendens on his homestead.

CASE DETAILS

COURT	United States District Court for the Eastern District of Louisiana
WRITING FOR THE COURT	Robert F. Collins
JURISDICTION	Louisiana
DECIDED	January 12, 1987
DOCKET	Civ. A. No. 86-0161
DISPOSITION	other
PROCEDURAL POSTURE	The United States brought an in rem civil forfeiture action under 21 U.S.C. § 881(a)(6) against real property allegedly purchased with drug proceeds. After a bench trial, Robert Seraydar and Pan American Bank, N.A. asserted claims, and Seraydar and the United States asserted counterclaims.
STANDARD OF REVIEW	The court served as the factfinder in a bench trial and evaluated the evidence under the applicable civil forfeiture burdens of proof. It treated probable cause as a question of law and assessed ownership, innocence, credibility, and equitable relief based on the evidence presented.
PRECEDENTIAL VALUE	Published federal district court opinion; persuasive authority within the federal system and not binding appellate precedent.

PARTIES	United States of America v. Robert Seraydar, Pan American Bank, N.A.

TOPICS

real estate · remedies · civil procedure · statutory interpretation · equitable relief

PRACTICE AREAS

civil forfeiture · real property · banking and secured transactions · civil procedure · equitable remedies

QUESTIONS PRESENTED

1. Whether the United States established probable cause to forfeit the real property under 21 U.S.C. § 881(a)(6).
2. Whether Robert Seraydar had a sufficient ownership interest to contest the forfeiture and, if so, whether he qualified as an innocent owner.
3. Whether Pan American Bank had standing as a lienholder and was entitled to protection of its mortgage interest.
4. Whether a lienholder was entitled to post-seizure interest, attorney fees, or other mortgage-related charges.
5. Whether the United States could use the relation-back doctrine to recover the Bank's mortgage amount from Seraydar.
6. Whether Seraydar could recover condominium fees, taxes, mortgage interest, court costs, or attorney fees through his counterclaim.
7. Whether the lis pendens on Seraydar's separate homestead was proper.

HOLDINGS

1. The United States established probable cause to seize and forfeit the property because the purchase price came directly from drug-trafficking proceeds and there was a substantial connection between those proceeds and the property.
2. Seraydar had standing to contest the forfeiture because he possessed title, paid taxes and condominium fees, and mortgaged the property, but he was not an innocent owner and therefore had no valid claim to the property.
3. Pan American Bank had standing as an innocent lienholder and was entitled to recover the unpaid mortgage principal of $38,000, but not post-seizure interest, attorney fees, or other mortgage charges.
4. The relation-back doctrine did not authorize the United States to recover the $38,000 mortgage from Seraydar because 21 U.S.C. § 881(a) is a permissive forfeiture statute.
5. Although the relation-back doctrine did not support the government's counterclaim, equity permitted the government to recover $17,026.18 from Seraydar to prevent him from profiting from the government's payment of the Bank's innocent lien.

6. The lis pendens on Seraydar's separate homestead had to be released because that property was not the subject of the forfeiture action and the government had not established a sufficient basis to burden its alienability.

KEY QUOTATIONS

> *"The test for determining probable cause for forfeiture is similar to that for arrests, searches and seizures: the government must show a reasonable ground for belief that there was an unlawful exchange of controlled substances, and that there is a substantial connection between that exchange and the property so that the drug proceeds are traceable to the property."* (650 F. Supp. at 1540)

> *"Possession of bare legal title to the seized property by one who does not control and exercise dominion over the property, or have a financial stake in the property may be insufficient to establish ownership."* (650 F. Supp. at 1541)

> *"If the government had to pay the entire amount of the mortgage principal to the Bank, Mr. Seraydar would directly benefit from his association with the drug trade. This cannot be allowed to happen."* (650 F. Supp. at 1543)

> *"This Court will not encumber his homestead without more than a mere suspicion of insolvency."* (650 F. Supp. at 1544)

FACTUAL BACKGROUND

Randy Fink, a convicted drug smuggler, used proceeds from his drug-trafficking operations to purchase a Bal Harbour condominium through his associate Anthony Varca and nominee Robert Seraydar. Seraydar received record title, but never occupied or rented the property while Fink's mother lived there, and later mortgaged the property to Pan American Bank. The court found that Seraydar knew or should have known of the drug-related source of the purchase funds, while the Bank lacked actual or constructive knowledge of the illegal activity and held a valid mortgage lien.

PROCEDURAL HISTORY

The court tried the case without a jury on October 24, 1986 and took it under advisement. The court entered findings of fact and conclusions of law, ordered forfeiture of the property to the United States, rejected Seraydar's claim, awarded the Bank the unpaid mortgage principal, partially granted the government's counterclaim against Seraydar, dismissed Seraydar's counterclaim, and released a lis pendens on Seraydar's homestead.

DISPOSITION

other

CASES CITED

- Calero-Toledo v. Pearson Yacht Leasing Co., 416 U.S. 663, 680-84, 94 S. Ct. 2080, 2090-92, 40 L. Ed. 2d 452 (1974)

- United States v. Premises Known as 8584 Old Brownsville Road, 736 F.2d 1129 (6th Cir. 1984)
- United States v. $53,661.50 in U.S. Currency, 613 F. Supp. 180, 184 (S.D. Fla. 1985)
- United States v. Three Hundred Sixty-Four Thousand Nine Hundred Sixty Dollars, 661 F.2d 319 (5th Cir. 1981)
- United States v. Little Al, 712 F.2d 133 (5th Cir. 1983)
- United States v. One 1978 Chevrolet Impala, 614 F.2d 983, 984 (5th Cir. 1980)
- United States v. One 18th Century Colombian Monstrance, 797 F.2d 1370 (5th Cir. 1986)
- United States v. Fleming, 677 F.2d 602 (7th Cir. 1982)
- United States v. One Piece of Real Estate, etc., 571 F. Supp. 723, 725 (W.D. Tex. 1983)
- United States v. One 1945 Douglas C54 (DC-4) Aircraft, 647 F.2d 864 (8th Cir. 1981)
- United States v. DKG Appaloosas, Inc., 630 F. Supp. 1540, 1568 (E.D. Tex. 1986)
- United States v. One 1978 Piper Navajo PA-31 Aircraft, 748 F.2d 316, 319 (5th Cir. 1984)
- United States v. $47,875.00 in United States Currency, 746 F.2d 291 (5th Cir. 1984)
- United States v. E.K.G. Appaloosas, 630 F. Supp. 1540 (E.D. Tex. 1986)
- Calero-Toledo v. Pearson Yacht Leasing Co., 416 U.S. 663, 94 S. Ct. 2080, 40 L. Ed. 2d 452 (1974)
- United States v. Stowell, 133 U.S. 1, 10 S. Ct. 244, 33 L. Ed. 555 (1890)
- United States v. $13,000 in United States Currency, 733 F.2d 581 (8th Cir. 1984)
- United States v. Currency Totaling $48,318.08, 609 F.2d 210, 213 (5th Cir. 1980), reh'g denied, 612 F.2d 579 (5th Cir. 1980)
- Beefy King International, Inc. v. Veigle, 464 F.2d 1102 (5th Cir. 1972)
- Allstate Finance Corp. v. Zimmerman, 272 F.2d 323 (5th Cir. 1959)