SUPREME COURT OF UTAH

Bank of America, N.A. v. Sundquist

Bank of Am., N.A. v. Sundquist, 2018 UT 58 (2018) · No. No. 20170014 · Decided October 5, 2018

SUMMARY

The Utah Supreme Court reconsidered its prior interlocutory decision concerning whether a national bank acting as a trustee in a Utah foreclosure was governed by Utah law under the National Bank Act. The court held that the term "located" in 12 U.S.C. § 92a(a) is ambiguous and that the Comptroller of the Currency's interpretation defining the relevant state was entitled to deference. The court reversed and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Justice Pearce; Chief Justice Durrant; Associate Chief Justice Lee; Justice Himonas; Justice Petersen
JURISDICTION	Utah
DECIDED	October 5, 2018
DOCKET	No. 20170014
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Direct appeal from the Third District Court's order quieting title in favor of Sundquist after the district court had previously entered an eviction order.
STANDARD OF REVIEW	Questions of statutory interpretation are reviewed for correctness, with no deference to the district court's legal conclusions.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Bank of America, N.A. v. Loraine Sundquist, John Doe/Jane Doe/Occupant Doug Kahler

TOPICS

statutory interpretation · chevron deference · foreclosure · federalism · appellate procedure

PRACTICE AREAS

banking law · real estate law · foreclosure · administrative law · appellate procedure · federalism

QUESTIONS PRESENTED

1. Whether exceptional circumstances permitted the Utah Supreme Court to reconsider its prior decision in the same case under the law-of-the-case doctrine.
2. Whether the term "located" in 12 U.S.C. § 92a(a) is ambiguous.
3. Whether Congress delegated to the Comptroller of the Currency authority to interpret the term "located" for purposes of national-bank fiduciary activities.
4. Whether the Comptroller's interpretation of where a national bank acts in a fiduciary capacity is a reasonable construction of the National Bank Act.
5. Whether a trustee under a deed of trust falls within the term "trustee" or otherwise acts in a fiduciary capacity under 12 U.S.C. § 92a(a).
6. Where ReconTrust is located under the Comptroller's regulatory standard.

HOLDINGS

1. Exceptional circumstances permitted the court to revisit Sundquist I because the prior decision was clearly erroneous and superior, more focused briefing revealed the need to correct the error and avoid an unjust result or unwise precedent.
2. The term "located" in 12 U.S.C. § 92a(a) is ambiguous and cannot be resolved solely from the statute's plain language.
3. Congress delegated to the Comptroller of the Currency authority to interpret the term "located," and the Comptroller's interpretation is entitled to deference because it is a reasonable construction of an ambiguous statute.
4. The National Bank Act clearly expresses Congress's intent to alter the usual federal-state balance by permitting national banks to exercise fiduciary powers according to the law of the state in which the bank is located.
5. A trustee under a deed of trust falls within the term "trustee" or otherwise acts in a fiduciary capacity for purposes of 12 U.S.C. § 92a(a), and the Comptroller's interpretation to that effect is reasonable and entitled to deference.
6. The district court must apply 12 C.F.R. § 9.7(d) to determine where ReconTrust was located and then apply the law of that jurisdiction.

KEY QUOTATIONS

> *"Although we continue to find logic in a national bank being "located" where the real property it attempts to sell is located, there is nothing in the plain language that mandates that result."* (¶ 37)

> *"What Congress meant by the term "located" in the National Bank Act cannot be determined from the statute's plain language."* (¶ 62)

> *"Because this is a federal statute accompanied by an agency's interpretation of the ambiguous language, Chevron requires us to defer to the "not unreasonable" interpretation the agency has provided."* (¶ 62)

FACTUAL BACKGROUND

Loraine Sundquist purchased a Utah home and executed a deed of trust naming MERS as beneficiary and an attorney as trustee. ReconTrust Company, N.A., later replaced the attorney, and after Sundquist defaulted, ReconTrust conducted a trustee's sale; the beneficial interest was ultimately acquired by FNMA and then Bank of America. ReconTrust asserts that it was located in Texas while acting as trustee, while Sundquist contended that Utah law governed and barred ReconTrust from serving as trustee. The district court ultimately quieted title in Sundquist's favor.

PROCEDURAL HISTORY

FNMA brought an action seeking to evict Sundquist and recover damages after a trustee's sale of the Utah property. The district court entered an eviction order, and the Utah Supreme Court addressed the matter on interlocutory review in Sundquist I, holding that Utah law applied. After FNMA transferred its interest to Bank of America, the district court quieted title in favor of Sundquist. The Utah Supreme Court revisited Sundquist I, reversed the district court's judgment, and remanded for application of the Comptroller of the Currency's interpretation of the National Bank Act.

DISPOSITION

```
reversed_and_remanded
```

REMAND INSTRUCTIONS

The district court must apply 12 U.S.C. § 92a(a), as interpreted by the Comptroller of the Currency and 12 C.F.R. § 9.7(d), to determine where ReconTrust was located, and then apply the law of that jurisdiction. The court must consider Sundquist's arguments under the regulatory standard and make any necessary factual findings.

CASES CITED

- Federal National Mortgage Ass'n v. Sundquist, 2013 UT 45, 311 P.3d 1004
- Sundquist II, 134 S. Ct. 475 (2014)
- Thurston v. Box Elder Cty., 892 P.2d 1034, 1038-39 (Utah 1995)
- Gildea v. Guardian Title Co. of Utah, 2001 UT 75, ¶ 9, 31 P.3d 543
- Messenger v. Anderson, 225 U.S. 436, 444 (1912)
- FDA v. Brown & Williamson Tobacco Corp., 529 U.S. 120, 154, 159-61 (2000)
- Gregory v. Ashcroft, 501 U.S. 452, 460-61 (1991)
- Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 842-44 (1984)
- MCI Telecommunications Corp. v. American Telephone & Telegraph Co., 512 U.S. 218, 229-34 (1994)
- Wachovia Bank v. Schmidt, 546 U.S. 303, 313 (2006)
- Dutcher v. Matheson, 840 F.3d 1183, 1200-02 (10th Cir. 2016)
- Entergy Corp. v. Riverkeeper, Inc., 556 U.S. 208, 218 (2009)

- Tamburri v. Suntrust Mortg., Inc., 875 F. Supp. 2d 1009, 1019 (N.D. Cal. 2012)
- BFP v. Resolution Trust Corp., 511 U.S. 531, 541-44 (1994)
- Virginia v. Browner, 80 F.3d 869, 872-79 (4th Cir. 1996)
- Marquette National Bank of Minneapolis v. First of Omaha Service Corp., 439 U.S. 299, 301-14 (1978)
- NationsBank of N.C., N.A. v. Variable Annuity Life Ins. Co., 513 U.S. 251, 256-57 (1995)
- Bank of Am. v. Adamson, 2017 UT 2, ¶¶ 11-12, 391 P.3d 196
- State v. Timmerman, 2009 UT 58, ¶ 25 n.5, 218 P.3d 590
- Epps v. JP Morgan Chase Bank, N.A., 675 F.3d 315, 318, 328 (4th Cir. 2012)