

SUPREME COURT OF THE STATE OF MONTANA

C. Cox v. Rodney E. Arnold, Claude Burlingame, Rocky Mountain Bank of Plains, and Russell B. Icenoggle

2001 MT 239N (Mont. 2001) · No. No. 99-609 · Decided December 4, 2001

SUMMARY

The Montana Supreme Court dismissed Cox's appeal from the dismissal of a complaint seeking to set aside a sheriff's sale of real property. The court held that the corporation holding title, rather than Cox individually, was the real party in interest, and that a non-attorney could not appeal on the corporation's behalf.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Chief Justice Karla M. Gray; W. William Leaphart; Terry N. Trieweiler; Patricia Cotter; Jim Rice
JURISDICTION	Montana
DECIDED	December 4, 2001
DOCKET	No. 99-609
DISPOSITION	dismissed
PROCEDURAL POSTURE	C. Cox appealed the Sanders County District Court's dismissal of his complaint seeking to set aside a sheriff's sale of real property.
STANDARD OF REVIEW	The court did not reach the merits of Cox's appellate issues because it dismissed the appeal for lack of standing and lack of authority to represent the corporation.
PRECEDENTIAL VALUE	Nonprecedential; the court expressly directed that the decision shall not be cited as precedent.
PARTIES	C. Cox v. Rodney E. Arnold, Claude Burlingame, Rocky Mountain Bank of Plains, Russell B. Icenoggle

TOPICS

- standing
- appellate procedure
- corporate law
- real estate
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Cox was the real party in interest entitled to challenge the sheriff's sale of property titled in the corporation's name.
2. Whether Cox, as a non-attorney, could prosecute an appeal on behalf of the corporation.

HOLDINGS

1. Cox was not the real party in interest because 1804, Inc., held legal title to the property and was therefore the proper party to assert the claim.
2. Cox could not prosecute the appeal on behalf of 1804, Inc. because a corporation may not appear or appeal through a non-attorney agent.

KEY QUOTATIONS

“Cox states five issues for appeal, but his lack of standing as a real party in interest precludes our consideration of any of those issues.” (¶ 2)

“Under the authority set forth above, 1804, Inc., not Cox, is the real party in interest in the underlying matter.” (¶ 6)

FACTUAL BACKGROUND

The real property sold at the sheriff's sale was titled in the name of 1804, Inc., a corporation of which Cox was a shareholder and president. Cox personally filed the complaint seeking to set aside the sale and personally pursued the appeal. Cox was not an attorney.

PROCEDURAL HISTORY

Cox filed a complaint in the District Court seeking to set aside a sheriff's sale based on alleged noncompliance with statutory procedural requirements. The District Court dismissed the complaint. The Montana Supreme Court dismissed the appeal because Cox was not the real party in interest and, as a non-attorney, could not represent the corporation on appeal.

DISPOSITION

dismissed

CASES CITED

- Kudloff v. City of Billings, 260 Mont. 371, 374, 860 P.2d 140, 142 (1993)
- Kondelik v. First Fidelity Bank of Glendive, 259 Mont. 446, 453-54, 857 P.2d 687, 692 (1993)
- Continental Realty, Inc. v. Gerry, 251 Mont. 150, 152, 822 P.2d 1083, 1085 (1991)

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