

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

OPINION

Cox v. Arnold

2001 MT 239N

PER CURIAM.

file:///C:/Documents%20and%20Settings/cu1046/Desktop/opinions/99-609%20Opinion.htm No.
99-609

IN THE SUPREME COURT OF THE STATE OF MONTANA

2001 MT 239N

C. COX,

Plaintiff and Appellant, v.

RODNEY E. ARNOLD, CLAUDE BURLINGAME,

ROCKY MOUNTAIN BANK OF PLAINS, a

corporation, and RUSSELL B. ICENOGGLE, Defendants and Respondents. APPEAL FROM:

District Court of the Twentieth Judicial District, In and for the County of Sanders, The Honorable

Michael C. Prezeau, Judge presiding. COUNSEL OF RECORD: For Appellant: C. Cox, Pro Se,

Plains, Montana For Respondents: Norman H. Grosfield, Attorney at Law, Helena, Montana (for

Rodney E. Arnold) file:///C:/Documents%20and%20Settings/cu1046/Desktop/opinions/99-

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Daniel D. Johns; Crowley, Haughey, Hanson, Toole & Dietrich, Kalispell, Montana (for Rocky

Mountain Bank of Plains and Russell B. Icenoggle) Submitted on Briefs: October 25, 2001

Decided: December 4, 2001 Filed: _____ Clerk

Chief Justice Karla M. Gray delivered the Opinion of the Court. ¶1 Pursuant to Section I,

Paragraph 3(c), Montana Supreme Court 1996 Internal Operating Rules, the following decision

shall not be cited as precedent. It shall be filed as a public document with the Clerk of the

Supreme Court and shall be reported by case title, Supreme Court cause number and result to the

State Reporter Publishing Company and to West Group in the quarterly table of noncitabale cases

issued by this Court. ¶2 C. Cox appeals from the decision of the Twentieth Judicial District Court,

Sanders County, dismissing his complaint to set aside a sheriff's sale of real property. 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. We dismiss the appeal. ¶3 Cox's complaint filed in the

District Court seeks to set aside a sheriff's sale of real property on grounds that the sale did not comply with statutory procedural requirements. Title to the real property sold at the sheriff's sale was held by a corporation, 1804, Inc., of which Cox was a shareholder and President. Cox, who is not an attorney, also filed this appeal. ¶4 Rule 17(a), M.R.Civ.P., provides that "[e]very action shall be prosecuted in the name of the real party in interest." In a dispute involving real property, a party vested with legal title to the property is the real party in interest. *Kudloff v. City of Billings* (1993), 260 Mont. 371, 374, 860 P.2d 140, 142 (citation omitted). file:///C:/Documents%20and%20Settings/cu1046/Desktop/opinions/99-609%20Opinion.htm (2 of 3)3/23/2007 1:56:59 PM file:///C:/Documents%20and%20Settings/cu1046/Desktop/opinions/99-609%20Opinion.htm ¶5 Moreover, when a corporation has a legal claim, the claim cannot be brought by anyone other than the corporation. *Kondelik v. First Fidelity Bank of Glendive* (1993), 259 Mont. 446, 453-54, 857 P.2d 687, 692. As a separate legal entity, a corporation cannot appeal on its own behalf through an agent other than an attorney. *Continental Realty, Inc. v. Gerry* (1991), 251 Mont. 150, 152, 822 P.2d 1083, 1085 (citations omitted).

¶6 Under the authority set forth above, 1804, Inc., not Cox, is the real party in interest in the underlying matter. Finally, even if 1804, Inc., had filed the complaint, Cox, as a non- attorney, would not be entitled to appeal on the corporation's behalf. ¶7 Therefore, this appeal is dismissed.

/S/ KARLA M. GRAY

We concur:

/S/ W. WILLIAM LEAPHART

/S/ TERRY N. TRIEWEILER

/S/ PATRICIA COTTER

/S/ JIM RICE

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