

SUPREME COURT OF THE STATE OF IDAHO

Golub v. Kirk-Hughes Development, LLC

158 Idaho 73 (2015) · No. 41501 · Decided February 4, 2015

SUMMARY

The Idaho Supreme Court affirmed summary judgment establishing that the Golubs’ recorded judgment lien had priority over Kirk-Scott’s earlier but unrecorded deed of trust. The court held that the good-faith and valuable-consideration requirements in Idaho Code section 55-606 do not logically apply to judgment lienholders, and that a subsequent judgment lien may take priority when it is first duly recorded. The court also affirmed \$2,400 in Rule 11 sanctions against Kirk-Hughes Development for joining an improperly filed motion.

CASE DETAILS

COURT	Supreme Court of the State of Idaho
WRITING FOR THE COURT	Justice Jones; Chief Justice Burdick; Justice Eismann; Justice Horton; Justice Pro Tem Walters
JURISDICTION	Idaho
DECIDED	February 4, 2015
DOCKET	41501
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from orders granting the Golubs' motion for summary judgment in a declaratory judgment action concerning priority between a judgment lien and an earlier but unrecorded deed of trust, denying motions to set aside the default judgment and for summary judgment, and imposing Rule 11 sanctions against Kirk-Hughes Development, LLC.
STANDARD OF REVIEW	Summary judgment is reviewed under the same standard applied by the district court; disputed facts and reasonable inferences are construed in favor of the nonmoving party, and legal questions are reviewed freely. Statutory interpretation is reviewed freely. Imposition and amount of Rule 11 sanctions are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Kirk-Hughes Development, LLC, Kirk-Hughes & Associates, Inc., Geraldine Kirk-Hughes, Peter Sampson v. Alan Golub, Marilyn Golub

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QUESTIONS PRESENTED

1. Whether the district court properly granted summary judgment to the Golubs on the priority of their judgment lien over Kirk-Scott's prior but unrecorded deed of trust.
2. Whether the district court abused its discretion by imposing and apportioning \$2,400 in Rule 11 sanctions against Kirk-Hughes Development.

HOLDINGS

1. Under Idaho Code section 55-606, the requirements that an interest be acquired in good faith and for valuable consideration do not logically apply to a valid judgment lienholder. A subsequent judgment lienholder may obtain priority over a prior unrecorded interest when the judgment lien is first duly recorded; a prior interest that was validly recorded would provide constructive notice and retain priority.
2. The district court did not abuse its discretion by imposing \$2,400 in Rule 11 sanctions against Kirk-Hughes Development for joining in an improperly filed motion to amend or alter the judgment.

KEY QUOTATIONS

"On appeal from the grant of a motion for summary judgment, this Court utilizes the same standard of review used by the district court originally ruling on the motion." (158 Idaho 74)

"Statutory interpretation is a question of law subject to free review." (158 Idaho 74)

"The signature of an attorney or party constitutes a certificate that the attorney or party has read the pleading, motion or other paper; that to the best of the signer's knowledge, information, and belief after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation." (158 Idaho 78)

"Based on the foregoing analysis, we hold that the district court did not abuse its discretion in ordering \$2400 in sanctions against KHD." (158 Idaho 80)

FACTUAL BACKGROUND

The Golubs obtained a \$941,000 default judgment arising from an unpaid real-estate commission and recorded the judgment as a lien against property owned by Kirk-Hughes Development, LLC. Kirk-Hughes Development purportedly granted Kirk-Scott, Ltd. a deed of trust in 2004, but the instrument was not recorded until September 2010, after the Golubs' judgment had been entered and while Kirk-Hughes Development's bankruptcy was pending. The district court held that the Golubs' judgment lien had priority and later sanctioned Kirk-Hughes

Development for joining in an improper motion to alter or amend the court's ruling on a motion to set aside the default judgment.

PROCEDURAL HISTORY

The Golubs obtained a \$941,000 default judgment against several defendants in 2009 and later recorded it after the dismissal of Kirk-Hughes Development's bankruptcy case. Kirk-Scott, Ltd. subsequently recorded a purported 2004 deed of trust for the first time. The Golubs filed a declaratory judgment action seeking priority for their judgment lien. The district court granted summary judgment to the Golubs, denied the opposing motions, and imposed \$4,800 in sanctions split between Kirk-Scott and Kirk-Hughes Development. Kirk-Hughes Development appealed.

DISPOSITION

affirmed

CASES CITED

- Conner v. Hodges, 157 Idaho 19, 23, 333 P.3d 130, 134 (2014)
- J & M Cattle Co. v. Farmers Nat'l Bank, 156 Idaho 690, 692, 330 P.3d 1048, 1050 (2014)
- Agrisource, Inc. v. Johnson, 156 Idaho 903, 914, 332 P.3d 815, 826 (2014)
- Golub v. Kirk-Scott, Ltd., 2015 WL 402794, at *6-*8 (Idaho 2015)
- Campbell v. Kildew, 141 Idaho 640, 649-51, 115 P.3d 731, 740-42 (2005)
- Slack v. Anderson, 140 Idaho 38, 89 P.3d 878 (2004)

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