

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF VENTURA

COURTROOM 42

HON. HENRY J. WALSH, JUDGE

COUNTY LINE HOLDINGS,

Plaintiff,

vs.

JAIME GONZALEZ,

Defendant.

No. 56-2013-00444799

REPORTER'S TRANSCRIPT OF PROCEEDINGS

FRIDAY, FEBRUARY 21, 2014

APPEARANCES:

For Plaintiff: ORLOFF & ASSOCIATES APC
BY: PAUL ORLOFF
ATTORNEY AT LAW
8402 Florence Avenue
Suite B1
Downey, California 90240

For Defendants: ANTONI ALBUS, LLP
ATTORNEYS AT LAW
BY: JOHN ANTONI
ATTORNEY AT LAW
11836 West Pico Boulevard
Los Angeles, California 90064

REINA M. COOK, C.S.R. #11725
Official Reporter Pro Tempore
800 South Victoria Avenue
Room 313
Ventura, California 93009

1 VENTURA, CALIFORNIA; FRIDAY, FEBRUARY 21, 2014

2 A.M. SESSION

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6 THE COURT: County Line versus Gonzalez.

7 MR. ORLOFF: Good morning, Your Honor. Paul Orloff

8 for moving party Gonzalez.

9 MR. ANTONI: Good morning, Your Honor. John Antoni on

10 behalf of plaintiff County Line Holdings.

11 THE COURT: All right. Mr. Antoni, I guess you have a
12 petition here to serve some people by serving the Secretary
13 of State?

14 MR. ANTONI: Correct, Your Honor.

15 THE COURT: All right. Let's do the easy part first.

16 On the demurrer, tentative is to overrule the
17 demurrer.

18 One of the issues you raise, Mr. Orloff, is an
19 altered deed. That's not something that I don't think is
20 resolvable on demurrer. You don't lose the issue, but I
21 don't know how I can resolve that in the context of a
22 demurrer.

23 Secondly and more important, though, if the
24 sheriff's sale is effective, I think you've got 90 days from
25 the date of sale to contest that. That's gone. So I think
26 the basis for the demurrer citing to that doesn't get off
27 the ground.

28 Do you wish to be heard further?

1 MR. ORLOFF: Yes. There's also a probate that was
2 opened. And we believe that this matter should be heard in
3 front of the probate because this is considered an asset of
4 the probate, essentially, because the -- the execution
5 happened after the date of the death and this should be
6 decided by the probate court. We believe that the -- that
7 the sale is void because it was without -- it was -- the --
8 instead of going to the -- to the probate court and opening
9 a probate to execute on this, the -- Mr. Torgerson had --
10 had just sought the general -- just the regular enforcement
11 of judgment as opposed to opening a probate. When you let
12 the probate -- or that Mr. Mansdorf had died and he should
13 have opened a probate. However, he -- he failed to do so.
14 He just went through and -- and sought enforcement. And by
15 that, we believe that the whole matter is under the
16 jurisdiction of the -- of the probate court, which has since
17 been opened.

18 THE COURT: Mr. Antoni.

19 MR. ANTONI: Your Honor --

20 THE COURT: I think that the debt was the debt of the
21 trust, wasn't it?

22 MR. ANTONI: The debt was the debt of the trust.

23 There's a couple of critical points that opposing
24 counsel is ignoring. One is the fact that following notice
25 of the sheriff's sale, there's a window of 120-150 days
26 during which if Mr. Gonzalez believed that this was a trust
27 asset and he was a trustee, which is something we dispute,
28 then it was incumbent on him to commence whatever probate

1 proceedings he believed were appropriate. He didn't. He
2 contested the sale and he took the exact opposite position
3 where he filed in that action saying this is not a trust
4 asset and lost.

5 The sale then proceeded. And, Your Honor, this
6 is -- this is the elephant in the room. Once that sale
7 occurs, it is governed by CCP 701.680. And it's clear. The
8 statute says the sale of the property pursuant to this
9 article is absolute and may not be set aside for any reason.
10 And then it identifies two exceptions, which are limited to
11 the judgment debtor within a 90-day period bringing an
12 action against the judgment creditor. And the statute even
13 makes clear that a third party buyer, which is County Line
14 Holdings, is not even subject to that action. So it is very
15 limited remedies. At that point whatever jurisdictional
16 arguments they want to make have been divested. And for the
17 obvious reason, Your Honor. How would anybody undertake a
18 sheriff's sale if you can come back eight months later and
19 say, Oh, no you didn't have jurisdiction. That's precisely
20 what the legislature intended for the sale to be final.

21 THE COURT: Last word, Mr. Orloff.

22 MR. ORLOFF: This is tantamount to -- I'm trying to
23 enforce a judgment in the face of a bankruptcy and
24 there's -- it's in the -- under the jurisdiction of the
25 bankruptcy court. Very, very similar to that is the probate
26 court. What was sold, if anything, was the -- was the
27 interest of the -- of the debtor. The debtor was -- is part
28 of a probate asset -- probate to the -- subject to the

1 administrator of the probate.

2 THE COURT: All right. I think Mr. Antoni has the
3 better of the argument. The demurrer is overruled.

4 How much time do you need to file your answer?

5 MR. ORLOFF: Can we have 20 days?

6 THE COURT: Sure.

7 All right. That gets us to March 13th is your
8 drop dead date.

9 Are there parties of record aside from the two of
10 you?

11 MR. ANTONI: Yes, Your Honor. McClanahan has appeared
12 in this action.

13 THE COURT: All right. You need to give notice,
14 Mr. Antoni.

15 MR. ANTONI: I will, Your Honor.

16 THE COURT: Both rulings. And you did submit an order
17 on the service request.

18 MR. ANTONI: Yes, Your Honor.

19 MR. DEARING: Your Honor, I'm the attorney for the
20 probate.

21 THE COURT: Just one minute, sir.

22 MR. DEARING: Okay.

23 THE COURT: Okay. Why don't you draw an eye to the
24 podium, identify yourself, and tell me what you want me to
25 hear.

26 MR. DEARING: My name is Henry Dearing. It's spelled
27 D-e-a-r-i-n-g. I'm the attorney for Gonzalez and
28 Mrs. Mansdorf who have a probate pending in Los Angeles

1 County and as well as a 850 petition that addresses the same
2 issues. And I'd like the Court to hear my argument.

3 THE COURT: I'm not sure you have standing in this
4 matter. As a courtesy, I'll listen to you. But you're
5 going to have to be really very good to have me unwind the
6 ruling.

7 MR. DEARING: Yes.

8 MR. ANTONI: And, Your Honor, we object to counsel --

9 THE COURT: Noted.

10 Go ahead.

11 MR. DEARING: First of all, there's the problem of
12 jurisdiction. We have a pending 850 petition in Los Angeles
13 County addressing the same issues, wherein the probate court
14 has first crack at this issue because the papers weren't
15 served in order to give jurisdiction to this Court before
16 the filing of the 850 petition. So there's an issue of
17 jurisdiction of this Court versus the Los Angeles probate
18 court.

19 Secondly, the law in question is Probate Code
20 19300. Probate Code 19300 creates a diversion in the
21 remedies for a creditor. What happened in this case is the
22 Torgerson firm, having a judgment against the trust and
23 knowing that the settler of that trust had died nevertheless
24 proceeded down the path of the enforcement of judgments law.
25 The enforcement of judgments law includes all of the
26 statutory protections for a normal enforcement of judgment,
27 including this 90-day rule to object and et cetera. So
28 what's happened is the 19300 Probate Code says no more

1 enforcement of judgments law. So everything that went down
2 the path of the enforcement of judgments law after date of
3 death is unlawful.

4 The remedy for the creditor, Torgerson, was to
5 proceed in probate. Or proceed in any way they wanted,
6 actually. They just couldn't enforce the judgment through
7 the enforcement of judgments avenue, which now County Line
8 is claiming as their defense to the demurrer. So the --
9 this Court, I would submit, Your Honor, is going down the
10 enforcement of judgments law directly contradictory to
11 19300.

12 And I'll just close by saying 19300 is very
13 important to the administration of private property. 19300
14 is there to prevent what has happened in this case. In this
15 case there was a execution sale by which County Line has
16 acquired trust property for pennies on the dollar. That is
17 exactly what 19300 prevents from happening. It does so
18 because new rights spring up on date of death. Rights of
19 beneficiaries, rights of other creditors, rights of the
20 ability to contest the trust documents, et cetera. So 19300
21 is bedrock law, which freezes the collection process. It
22 doesn't attack the judgments. It freezes the collection
23 process and creates another way of handling it so that what
24 happened in this case doesn't happen to anyone else.

25 So I would ask the Court to reconsider the use of
26 the enforcement of judgments law in this case. It -- it's
27 not the applicable law.

28 THE COURT: There's some procedural irregularities

1 here. Your standing is one of them. You need to get into
2 the case somehow, whether that's associating with Mr. Orloff
3 or somebody else. That's the first impediment.

4 And, secondly, I'm hearing this for the first
5 time. It should have been included in somebody's papers or
6 somebody's arguments at an earlier time.

7 MR. DEARING: It was definitely in the reply brief.

8 THE COURT: All right.

9 MR. DEARING: This same -- the same exact argument and
10 cases.

11 THE COURT: I'm not changing the ruling. The remedy
12 at this point, somebody needs to take a writ if they're
13 that -- if they're that convinced that I'm that wrong. But
14 the ruling is what it is.

15 And, Mr. Antoni, you're giving notice.

16 MR. ANTONI: Thank you, Your Honor.

17 MR. ORLOFF: Thank you, Your Honor.

18 And who are the parties that are being served
19 by -- with the --

20 THE COURT: Malibu something.

21 MR. ANTONI: The Malibu entities.

22 MR. ORLOFF: Okay.

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24 (Proceedings adjourned.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA

COUNTY LINE HOLDINGS,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 56-2012-00412161
	)	
TIME WARNER NY CABLE, LLC, ET AL.,	)	
	)	
Defendants.	)	
_____	)	

I, REINA M. COOK, CSR #11725, Certified Shorthand Reporter of the state of California, for the County of Ventura, do hereby certify that the foregoing pages 1 through 7 are a full, true and correct transcript of the proceedings had in the above-entitled case on Friday, February 21, 2014.

Dated at Ventura, California, this 25th day of February 2014.

REINA M. COOK, CSR #11725
Official Reporter Pro Tempore

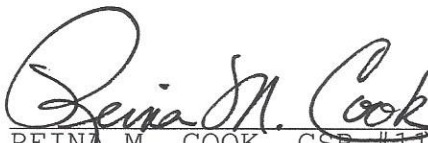
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FOR THE COUNTY OF VENTURA

COUNTY LINE HOLDINGS,)
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 vs.) No. 56-2012-00412161
)
 TIME WARNER NY CABLE, LLC, ET AL.,)
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 Defendants.)
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