

21

Paul Orloff (SBN 216791)  
ORLOFF & ASSOCIATES APC  
8402 Florence Avenue Suite B1  
Downey, California 90240  
Telephone (562) 869-3034  
Facsimile (562) 869-3539

Attorney for Defendants  
JAIME DE JESUS GONZALEZ and  
LINDA MANSDORF

**FILED**  
LOS ANGELES SUPERIOR COURT

APR 23 2013

JOHN A. CLARKE, CLERK  
BY ANDRE WILLIAMS, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

**ALTA STANDARD ONE, LLC**

Plaintiffs,

v.

**JAIME DE JESUS GONZALEZ et al**

Defendants

CASE NO. 13U00769

**OPPOSITION TO MOTION FOR  
SUMMARY JUDGMENT**

Date: April 24, 2013

Time: 8:30 am

Dept: WE-S

Defendants JAIME DE JESUS GONZALEZ ("Gonzalez") and LINDA MANSDORF  
("Mansdorf") hereby oppose the Motion for Summary Judgment as follows:

**I. INTRODUCTION AND BACKGROUND**

Plaintiff claims to have purchased title from a judgment debtor's sale against the estate of Harry Mansdorf, but the estate of Harry Mansdorf did not have title to the Property at issue in this litigation at the time of the purported sale.

At issue in this litigation is a home located at 811 N. Alta Drive, Beverly Hills, California 90210. (Hereinafter the "Alta House"). Title to the Alta House was at one time held in the Mansdorf Family Trust, but in 2008 was transferred to Harry Mansdorf and Jaime DeJesus Gonzalez in Joint Tenancy. The title held by Harry Mansdorf extinguished upon the death of Harry Mansdorf due to the fact that title was held in Joint Tenancy. The benefit of the Right of Survivorship went to Gonzalez at the death of Harry

1 Mansdorf.

2 **II. THIS COURT MAY NOT DETERMINE COMPETING TITLES BETWEEN THE PARTIES**

3 Subject to few exceptions which are unrelated to the present case, Unlawful Detainer Actions may  
4 not adjudicate questions of title. High v Cavanaugh (1962) 205 CalApp2d 495, 498-499.

5 When there is an action litigating title in an independent civil action, the unlawful detainer court  
6 may consolidate the Unlawful detainer to be heard with the independent civil action for title. See Wilson  
7 v Gentile (1992) 8CalApp.4th 759, 761, 10 CR2d 713, 714. Gonzalez has filed an action in the Superior  
8 Court regarding title and this case should be transferred to the Superior Court in Los Angeles.

9 **III. PLAINTIFF DOES NOT HAVE TITLE TO THE PROPERTY AS AGAINST GONZALEZ**

10 In about 2008, Plaintiff assisted Harry Mansdorf in retaining and paying for attorneys to help  
11 defend him against several dastardly individuals who had fraudulently obtained title to the Alta House. In  
12 exchange for the assistance which Gonzalez had provided to Harry Mansdorf, Harry Mansdorf transferred  
13 title to the Alta House to himself and Gonzalez in joint tenancy with right of survivorship. A true and  
14 correct copy of the deed is attached hereto as Exhibit A.

15 Title was transferred from Harry Mansdorf to Harry Mansdorf and Jaime DeJesus Gonzalez in  
16 Joint Tenancy with the Right of Survivorship in 2008 by means of a Grant Deed. Defendants request that  
17 this Court take Judicial Notice of the certified record of title identified also hereto as Exhibit A. Harry  
18 Mansdorf died on August 27, 2012, thereby extinguishing his title and interest in the Alta Property.

19 Plaintiff purportedly obtained title to the Alta House pursuant to a Sheriff's sale held on or about  
20 October 31, 2012, whereby the purchaser bought Harry Mansdorf's interest in the Alta House. Since  
21 Harry Mansdorf died previously and his Joint Tenancy interest extinguished based upon his death,  
22 Plaintiff did not purchase an interest in anything.

23 Further, Plaintiff was not an actual entity until it was actually formed and began operating,  
24 whereby the date which Alta Standard was filed with the Secretary of State was on November 1, 2012.  
25 As such, Plaintiff did not have standing to receive any interest in the Alta Property.

26 Gonzalez advised all who were present at the sheriff sale that Harry Mansdorf died and that  
27 Gonzalez was the sole owner of the Alta House. Plaintiffs stated that they would take their chances later.  
28 Plaintiff knew about the transfer to Gonzalez and that Mansdorf did not have any interest which could be

000230

1 purchased at that time.

2 Until a levy, property is not affected by an execution. See Code of Civ. Proc. § 688.1 et seq. See  
3 also Zeigler v Bonnell 52 Cal.App.2d 217, 219, 126 P.2d 118.

4 “After the death of a judgment debtor, enforcement of a judgment against property in the  
5 judgment debtor’s estate is governed by the Probate Code, and not by [the Code of Civil Procedure.]”  
6 CCP §686.020.

7 **IV. PLAINTIFF’S CLAIM TO TITLE HAS NO EFFECT UPON GONZALEZ’S TITLE**

8 A lien against a property goes against the person whom the lien affects, but it carries none of the  
9 incidents of ownership of the property. A mortgage executed by one of two joint tenants was not  
10 enforceable after the death of that joint tenant. See Hamel v Gootkin (1962) 202 Cal.App. 2d 27, 28-29,  
11 20 Cal.Rptr. 372. A lien or charge upon one Joint Tenant’s interest did not operate to transfer the legal  
12 title or any title to the lienholders to possession, it did not destroy any of the unities and therefore the  
13 estate in joint tenancy was not severed. See Hamel v Gootkin, *Supra*; See also People v. Nogarr, 164  
14 Cal.App.2d 591, 594, 330 P.2d 858, 68 A.L.R.2d 992.

15 The lienholder which Plaintiff claims title from did not seek a termination or severance of the  
16 joint tenancy. The lienholder which Plaintiff claims title from failed to seek severance of the joint  
17 tenancy and therefore took whatever interest Harry Mansdorf continued to hold in the Alta House.

18 The Court has decided practically the identical issue as the one before us. The Court in Zeigler v  
19 Bonnell 52 Cal.App.2d 217, 126 P.2d 118 decided the legal proposition of:

20 “Where real property is held by joint tenants, one of whom is a judgment debtor, and the judgment  
21 debtor dies prior to a levy of execution but after an abstract of the judgment has been recorded,  
22 and a levy of execution is made after the death of the judgment debtor against the interest of the  
23 debtor, does the purchaser at the execution sale secure any rights in the property, or does the  
24 surviving joint tenant take the entire property free and clear of the lien of the judgment?” Zeigler v  
25 Bonnell *supra* at 219.

26 The Court reasoned that “while all joint tenants are alive, execution may be had upon the interest of one  
27 of the joint tenants, and that upon the purchase of the interest of that joint tenant at execution sale the  
28 joint tenancy is severed and the purchaser and the other joint tenant or tenants become tenants in

1 common." Zeigler v Bonnell supra at 219. The Court ruled that a judgment lien on the interest of one  
2 joint tenant prior to execution does not sever the joint tenancy and therefore when a joint tenant dies, any  
3 judgment lien not already executed upon can no longer be executed upon. The judgment lien of  
4 McClanahan which Plaintiff relies upon could not attach to the Alta House once Harry Mansdorf died,  
5 whose interest terminated upon his death on August 27, 2012. See Zeigler v Bonnell supra at 220. "After  
6 his death there was no interest to levy upon." Zeigler v Bonnell supra at 220. Upon the death of Harry  
7 Mansdorf, the Alta House belonged 100% to Gonzalez and Gonzalez alone.

8 **V. A MOTION FOR SUMMARY JUDGMENT IS TO DETERMINE ISSUES OF LAW AND**  
9 **NOT OF FACT**

10 The purpose of a Motion for Summary Judgment is to determine whether there are any genuine  
11 issues of material fact for trial. Aguilar v Atlantic Richfield Co (2001) 25 Cal.4th. 826, 843; CCP  
12 §437c(c). A trial is warranted if there is an issue of fact for a finder of fact to resolve. Supra.

13 Plaintiff's burden is to prove that there is no triable issue of material fact on one or more causes of  
14 action. CCP §437c(c),(f). The issue of whether Plaintiff actually has title is an issue of fact and not of  
15 law. Further, it is an issue of fact to be determined upon a trial upon the merits related to the case of  
16 Gonzalez v Alta Standard One LLC filed in the Superior Court in Los Angeles.

17 **VI. CONCLUSION**

18 Plaintiff's claim of title is flawed. Title is held in Defendant Gonzalez's name and Linda  
19 Mansdorf remains in possession as a guest and under the title of Defendant Gonzalez. As such,  
20 Plaintiff's claim fails and the Motion for Summary Judgment should be denied.

21  
22  
23 Dated: April 23, 2013

ORLOFF & ASSOCIATES APC

24  
25 

26 Paul Orloff, Attorney for Defendants JAIME DE  
27 JESUS GONZALEZ and LINDA MANSDORF  
28

000232

1 PROOF OF SERVICE BY MAIL

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I, the undersigned, hereby certify that I am a resident of the United States and am over the  
4 Age of 18; I am employed in the County of Los Angeles, California, in which County the within  
5 mailing took place; and am not a party to the subject case. My business address is LAW  
6 OFFICES OF ORLOFF & ASSOCIATES 8402 Florence Avenue Suite B1, Downey, California  
7 90240. I declare that I am a member of the California State Bar and am licensed to practice  
8 before this Court .

9 On April 23, 2013, I served or caused to be served the foregoing document described as  
10 **OPPOSITION TO MOTION FOR SUMMARY JUDGMENT** on the interested parties, as  
11 follows:

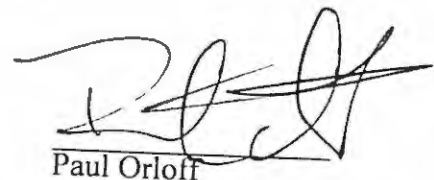
12 Wayne M. Abb, Esq  
13 21601 Vanowen Street Suite 208  
14 Canoga Park, California 91303

15 via U.S. MAIL, by placing a true copy thereof in a sealed envelope, with postage thereon fully  
16 prepaid, in the United States mail at Downey, California. Also by facsimile to (760) 369-6703.

17 I am familiar with this firm's practice for the collection and processing of documents for  
18 mailing within the United States Postal Service, that the documents would be deposited with the  
19 United States Postal Service that same day in the ordinary course of business.

20 I declare under the penalty of perjury that the foregoing is true and correct.

21 Executed on April 23, 2013, at Downey, California.

22   
23 Paul Orloff