



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**WESTBROOK v. GOODMAN
CV-25-0240-PR**

PARTIES:

Petitioner: Michael Goodman

Respondent: Westbrook Rental, LLC

FACTS:

While Michael Goodman and Angela Wilson-Goodman were engaged in dissolution proceedings, Angela set up Westbrook Rental, LLC, with herself as the sole member. Westbrook then used what Michael believed to be community funds to purchase a piece of real property. Michael recorded a notice of lis pendens against the property, alleging that he could show it had been purchased with community funds. Angela, in her capacity as Westbrook's representative, filed a separate civil action seeking to have the lis pendens removed.

Following an evidentiary hearing, the superior court determined that Michael should have joined Westbrook as a necessary party in the dissolution proceedings. Because he did not do so, the superior court concluded there was no action "affecting title to real estate," and thus the lis pendens was "groundless." It ordered Michael to release the lis pendens and awarded Westbrook damages and attorney fees.

In a split opinion, the court of appeals affirmed. The majority concluded that because Westbrook was not joined in the dissolution proceedings the lis pendens was groundless, that Michael should have known the lis pendens was groundless, and that under A.R.S. § 33-420 he was liable for damages and Westbrook's attorney fees and costs. The dissent disagreed, stating that Michael had an arguable basis for believing the dissolution action would affect title to community property, that any disputes about proper joinder of Westbrook could have been resolved in the dissolution action, and that such disputes did not render Michael's lis pendens "groundless."

ISSUES:

1. Are spouses required to join as parties in their divorce case all entities holding nominal title to community real property before they can record a valid lis pendens and prevent unlawful dissipation of the estate?
2. Does the family court lack power to award community property to either spouse if such property titled is in the name of an alter-ego entity and the entity is not joined as a party to the dissolution proceeding?
3. Even if Petitioner's lis pendens was defective due to failure to join Westbrook Rental, LLC as a party to the dissolution proceeding, does it necessarily follow that

his lis pendens was “groundless,” such that he is responsible for Westbrook’s attorney fees?

STATUTES:

§ 12-1191. Notice of pendency of action affecting title to real property; filing; constructive notice to purchaser or encumbrancer; release of notice of pendency of action; failure to issue release; liability

A. In an action affecting title to real property, the plaintiff at the time of filing the complaint, or thereafter, and the defendant at the time of filing the defendant's pleading when affirmative relief is claimed in such pleading, or thereafter, may file in the office of the recorder of the county in which the property is situated a notice of the pendency of the action or defense. . . . The notice shall contain the names of the parties, the object of the action or affirmative defense, the relief demanded and a description of the property affected.

§ 33-420. False documents; liability; special action; damages; violation; classification

A. A person purporting to claim an interest in, or a lien or encumbrance against, real property, who causes a document asserting such claim to be recorded in the office of the county recorder, knowing or having reason to know that the document is forged, groundless, contains a material misstatement or false claim or is otherwise invalid is liable to the owner or beneficial title holder of the real property for the sum of not less than five thousand dollars, or for treble the actual damages caused by the recording, whichever is greater, and reasonable attorney fees and costs of the action.

B. The owner or beneficial title holder of the real property may bring an action pursuant to this section in the superior court in the county in which the real property is located for such relief as is required to immediately clear title to the real property as provided for in the rules of procedure for special actions. This special action may be brought based on the ground that the lien is forged, groundless, contains a material misstatement or false claim or is otherwise invalid. The owner or beneficial title holder may bring a separate special action to clear title to the real property or join such action with an action for damages as described in this section. In either case, the owner or beneficial title holder may recover reasonable attorney fees and costs of the action if he prevails.

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