



**ARIZONA SUPREME COURT  
ORAL ARGUMENT CASE SUMMARY**



**CECELIA M. LEWIS, et al. v. RAY C. DEBORD, et al.,  
CV-14-0293-PR**

**PARTIES:**

*Petitioners/Cross-Respondents/  
Defendants:*

Cecelia M. Lewis & Randall Lewis (“the Lewises”)

*Respondents/Cross-Petitioners/  
Plaintiffs:*

Ray C. Debord & Anne Nelson-Debord, (“the Debords”)

**FACTS:**

***Factual Background.*** In 2003, the Lewises obtained a money judgment against Karen MacKean and Fred Foust for about \$38,000. They recorded a judgment lien in January 2006 and renewed it in June 2008. When the judgment was recorded and the recording was renewed, however, the Lewises failed to attach an information statement as required by A.R.S. § 33-961(C) and A.R.S. § 33-967(A).

In March 2008, MacKean bought a townhouse and promptly transferred it to a company named Sonomex, LLC, of which Foust was an officer and the statutory agent. In July 2012, the Debords bought the property from Sonomex for about \$160,000. About a month after the sale, the Lewises brought suit in Pima County to foreclose on the judgment lien and to obtain a writ of execution on the property, naming MacKean, Sonomex, and the Debords as defendants.

In March 2013, the Debords moved for summary judgment, arguing that because the Lewises failed to attach the information statement to the recording, the lien was invalid and unenforceable against their property. In response, the Lewises argued that their failure to attach an information sheet affected only the lien’s priority, not its validity. After filing their response, they amended their recording to attach an information statement.

In September 2013, after hearing oral argument, the superior court issued findings of fact and conclusions of law adopting the Debords’ position, declaring the lien invalid and granting summary judgment in the Debords’ favor. The court’s judgment included Rule 54(b) language, allowing an immediate appeal to the Court of Appeals.

***The Court of Appeals’ Ruling.*** The Court of Appeals affirmed, but on grounds different than those relied on by the superior court.

***First,*** it rejected the Debords’ argument that the failure to record an information statement invalidated the Lewises’ judgment lien. It noted that A.R.S. § 33-961(A)’s “plain language” merely requires the recording of a judgment and does not “require that an information statement also be attached ‘before the judgment shall become a lien.’” It also pointed out that A.R.S. § 33-961(C), which requires the statement to accompany the recorded judgment, “does not condition

the validity of the judgment lien on the attachment of the information statement.” “If the legislature had intended such a requirement,” it continued, “it easily could have said so.”

**Second**, it ruled that “[b]ased on the plain language” of A.R.S. § 33-967(D), “a judgment creditor’s failure to attach an information statement affects the priority of the judgment lien,” but not its validity. A.R.S. § 33-967(D) provides that “[a] judgment or decree or any renewal that requires the payment of money recorded on or after January 1, 1997, *has as its priority* the date of compliance with subsection A of this section.” (Emphasis added.) The court noted that “[p]riority commonly means ‘[t]he status of being earlier in time or higher in degree or rank; precedence.’” (Quoting BLACK’S LAW DICTIONARY 1386 (10th ed. 2014).) “[B]y introducing the concept of priority here,” it reasoned, “the legislature necessarily placed conditions on the judgment creditor’s ability to reach the judgment debtor’s real property in which third parties have acquired a superior interest.”

**Third**, it disagreed with the Lewises’ position that “the failure to attach an information statement affects the priority of the judgment lien in relation to only competing lienholders and not subsequent purchasers.” It noted that “[i]f the legislature wanted to limit the concept of priority in § 33-967(D) to the interests of competing lienholders, it could have said so.” Thus, the court concluded, “where a subsequent purchaser acquires an interest in a judgment debtor’s real property after a judgment creditor records a judgment but before attaching an information statement, the resulting judgment lien loses its priority and the judgment creditor cannot satisfy his or her judgment by executing on that property.”

Applying that rule here, the court ruled that because the Debords acquired the property before the Lewises complied with the requirement for an information statement, “the Debords’ interest in the property has priority over the Lewises’ judgment lien.” As such, it concluded, “the Lewises cannot satisfy their judgment by executing on the Debords’ property” and the superior court did not err in granting summary judgment in the Debords’ favor.

## ISSUES:

**Petition:** “Did the Court of Appeals err in holding that the Lewises cannot satisfy their judgment by executing on the Debords’ property because the Debords, as subsequent purchasers, have ‘priority’ over the Lewises’ valid judgment lien, which renders the property immune from levy and execution?”

**Cross-Petition:** “If this Court grants the petition for review, then respondents . . . cross-petition for review of the Court of Appeals decision . . . regarding the validity of the judgment lien. Although the Court of Appeals reached the right result based on its lien priority analysis, it erred in not finding the judgment lien invalid as a result of the Lewises’ failure to comply with the legislative mandate to record an information statement found in A.R.S. § 33-961(C).”

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