

SUMMARY STATEMENT

Houpt v. Wells Fargo Bank, Docket No. 41990-2014

In a case of first impression, the Idaho Supreme Court held that Idaho does not recognize an action for attempted wrongful foreclosure. In its ruling the Court affirmed in part, vacated in part, and remanded a Bonneville County district court's grant of summary judgment in favor of Wells Fargo Bank. Charles and Gail Houpt (Houpts) argued that despite the fact that they sold the property in question to a third-party purchaser, Wells Fargo should still be liable for damages because it wrongfully attempted to foreclose on the property. The district court found, among other reasons, that because no foreclosure sale had occurred, Wells Fargo was entitled to summary judgment as a matter of law. After denying Houpts' request for reconsideration, the district court entered judgment in favor of Wells Fargo and awarded attorney fees and costs.

The Idaho Supreme Court held that the district court was correct in finding that Houpts did not have a cause of action for wrongful foreclosure because the Houpts voluntarily sold the property to a third-party purchaser before the foreclosure sale occurred. The Court specifically held that there is no cause of action for attempted wrongful foreclosure in Idaho. However, the Court vacated the fees and costs awarded in the district court and remanded to the district court with specific instructions to limit the amount of fees and costs awarded to Wells Fargo. No fees or costs were awarded on appeal.