

SUMMARY STATEMENT

Montierth v. Dorssers

Docket No. 49419

This case concerns a dispute between the priority of competing mortgages on a parcel of real property in Canyon County, Idaho. The holders of the second priority mortgage, Ray and Susan Montierth (the “Montierths”), brought a foreclosure action against the holders of the first priority mortgage, Hendrick Dorssers and Justice Prevails, LLC (collectively “Dorssers”), and a variety of other parties with an interest in the real property.

The district court concluded that enforcement of the first priority mortgage was barred by the statute of limitations and, therefore, unenforceable as a matter of law. Thereafter, the district court granted summary judgment in favor of the Montierths. After granting summary judgment, Dorssers moved for reconsideration and separately objected to the proposed judgment offered to the district court. The district court denied both the motion for reconsideration and the objection to the proposed judgment.

On appeal, Dorssers asserted three points of error. First, Dorssers argued that the district court erred in concluding that a partial payment did not extend the statute of limitations for enforcement of the first priority mortgage under Idaho Code section 5-238. Second, and in the alternative, Dorssers argued that the district court erred in concluding a junior position lien holder can quiet title to a senior position lien holder. Third, Dorssers argued that the district court separately erred in issuing an order to quash the lis pendens.

The Idaho Supreme Court reversed the district court’s grant of summary judgment and remanded for further proceedings consistent with its opinion. The Court concluded that the district court erred as a matter of law in its application of the statute of limitations and section 5-238. The Court further held that there were genuine issues of material fact that precluded a grant of summary judgment. Since relief was granted as to Dorssers’ first argument on appeal, the Court did not address Dorssers’ alternative argument. Additionally, the Idaho Supreme Court concluded that the district court abused its discretion by quashing the lis pendens.

******This summary constitutes no part of the opinion of the Court, but has been prepared by court staff for the convenience of the public.******