

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2018-053929

10/09/2020

HONORABLE THEODORE CAMPAGNOLO

CLERK OF THE COURT

G. Chavez

Deputy

SKY BOLES

SKY BOLES

3307 W ECHO LN

PHOENIX AZ 85051

v.

JASON TARRELL, et al.

MARY T HONE

KATHRYN A BATTOCK

TROY B STRATMAN

MARK ZINMAN

COMM. POPHAM

COURT ADMIN-CIVIL-ARB DESK

JUDGE CAMPAGNOLO

MINUTE ENTRY

**NOTE: There is a “LATER” at the end of this Minute Entry.**

Courtroom 102 – NER

10:00 a.m. This is the time set for an Oral Argument via GoToMeeting regarding Defendant Northern Manor Townhouse Association’s Motion for Summary Judgment and Defendant Maricopoly’s Joinder in Northern Manor Townhouse Association’s Motion for Summary Judgment, both filed on June 15, 2020. Plaintiff, Sky Boles, is neither present nor represented by counsel. Counsel Troy B. Stratman, Kathryn A. Battock, and Joseph M. Hoffman appear on behalf of the Defendant, Northern Manor Townhouse Association (“Northern Manor”). Counsel Mark Zinman appears on behalf of the Defendant, Maricopoly, LLC.

A record of the proceedings is made digitally in lieu of a court reporter.

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LET THE RECORD REFLECT that Plaintiff Sky Boles had notice of today's proceeding and has failed to appear. Accordingly, the Court shall proceed with today's oral argument in her absence.

Discussion is held.

Oral argument from Defendants is heard.

Based on the information presented, and for the reasons stated on the record,

THE COURT FINDS that it has the authority to grant Defendant Northern Manor Townhouse Association's Motion for Summary Judgment and Defendant Maricopoly's Joinder in Northern Manor Townhouse Association's Motion for Summary Judgment, because Plaintiff Sky Boles had the opportunity to respond to the motions and to present argument at today's oral arguments hearing, of which she had notice, but failed to appear.

THE COURT FURTHER FINDS that Plaintiff Sky Boles has wholly failed to show that she has ownership, title, or any right of possession to the property located at 8421 N. 33rd Avenue Phoenix, AZ 85051, Lot 86, Northern Manor, according to Book 156 of Maps, page 6, records of Maricopa County, Arizona, Parcel No. 15009087 (hereinafter "subject property").

THE COURT FURTHER FINDS that Plaintiff Sky Boles has failed to meet her burden to present sufficient evidence to support her case. Specifically, there is no deed from Mr. Wright to Mr. Tarrell to support any of Plaintiff's claims, due to the absence of chain of title. Additionally, Mr. Tarrell testified at a previous hearing that he never transferred title to Ms. Boles, and he provided an affidavit to the same effect. Even if the purported deed from Mr. Tarrell was actually signed by him, there was no showing through the chain of title that Mr. Tarrell had any legal title to the property. This does not create a genuine issue of material fact, because under either scenario, Plaintiff could not have received title.

THE COURT FURTHER FINDS that there are no genuine issues of material fact.

THE COURT FURTHER FINDS that even if Ms. Boles had ownership, title, or right of possession to the subject property, which she does not, she had notice of the sheriff's sale, and failed to make the necessary payment to avoid the sale.

THE COURT FURTHER FINDS that in light of the sheriff's sale, anybody that had ownership, title, or right of possession to the subject property lost that right upon the sheriff's sale of the property to Maricopoly, LLC.

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THE COURT FURTHER FINDS that the sheriff's sale is conclusive evidence of Maricopoly, LLC's title ownership. Maricopoly, LLC, was the *bona fide* purchaser of the subject property.

THE COURT FURTHER FINDS that any claims that Ms. Boles makes now or will make in the future as to the subject property is precluded by collateral estoppel and *res judicata*.

THE COURT FURTHER FINDS that Maricopoly, LLC's Joinder in Northern Manor Townhouse Association's Motion for Summary Judgment equated to a Motion for Summary Judgment.

THE COURT FURTHER FINDS that Defendants Northern Manor Townhouse Association and Maricopoly, LLC are entitled to summary judgment as a matter of law.

THE COURT FURTHER FINDS that Plaintiff has no legal right to continue to file pleadings and motions claiming title, ownership, or right to possession of the subject property.

**IT IS ORDERED** granting Defendant Manor Townhouse Association's Motion for Summary Judgment filed on June 15, 2020, and Maricopoly's Joinder in Northern Manor Townhouse Association's Motion for Summary Judgment, filed on June 15, 2020.

**IT IS FURTHER ORDERED** dismissing case no. CV2020-051900 (consolidated) in its entirety with prejudice as to all Defendants.

**IT IS FURTHER ORDERED** dismissing case no. CV2018-053929 (consolidated) with prejudice as to Defendant/Intervenor Northern Manor Townhouse Association only. (**See "LATER"**).

~~**IT IS FURTHER ORDERED** that the default proceedings as to Jason Tarrell in case no. CV2018-053929 shall be referred to the Commissioner. Plaintiff Sky Boles may not seek a default judgment against Mr. Tarrell as to any claim of ownership, title, or right of possession to the subject property. (See "LATER").~~

**IT IS FURTHER ORDERED** that any further pleadings filed by Plaintiff Sky Boles claiming or seeking ownership, title, or right of possession to the subject property, and/or against the Defendants in the consolidated cases as to the subject property, shall be deemed frivolous and without legal basis, and shall be automatically dismissed with prejudice without further notice.

**IT IS FURTHER ORDERED** quashing the Notice of *Lis Pendens* recorded by Sky Boles on May 18, 2018 as to the subject property.

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**IT IS FURTHER ORDERED** that counsel for Defendant Northern Manor Townhouse Association shall file an Application and Affidavit for Attorney's Fees with a Statement of Verified Costs no later than **October 30, 2020**. Plaintiff shall be permitted to file a response to the Application and Affidavit within the timeframe allowed by the applicable Rules of Civil Procedure. No Reply shall be allowed.

**IT IS FURTHER ORDERED** that Defendant Northern Manor Townhouse Association shall lodge a form of judgment of dismissal, consistent with the Court's rulings herein, for the Court's review and signature no later than **October 30, 2020**.

Counsel for Defendant Northern Manor makes an oral motion for the Court to reconsider Northern Manor Townhouse Association's Motion to Declare Sky Boles a Vexatious Litigant, filed on April 6, 2020.

**IT IS ORDERED** granting the oral motion to reconsider the aforementioned oral motion. If the Court decides to grant the motion, then the ruling will be included in Judgment of Dismissal.

10:56 a.m. Matter concludes.

**LATER:**

Having reconsidered Defendants' request to declare Plaintiff a vexatious litigant under A.R.S. §12-3201, the Court declines to grant the request. Under §12-3201, the sanction that the Court can impose is to require that a *pro se* litigant must obtain court approval before filing any further pleadings. The only basis to declare Plaintiff a vexatious litigant is her repeated attempts to claim some right to possession of the subject property. Technically, the Court could find Plaintiff to be a vexatious litigant in regard to the subject property, because of her numerous and repeated filings. There is no evidence, however, that Plaintiff has been involved in vexatious conduct in regard to other matters. The Court has already ordered that Plaintiff is prohibited from filing any further pleadings in which she would attempt to claim some title, ownership or right to possession of the subject property. Under the Court's Order, she has no right to seek leave to file any pleadings in regard to the subject property. They will be subject to automatic dismissal. However, the Court has no basis to require her to seek leave to file pleadings unrelated to the subject property. In light of the Order prohibiting any further filings as to the subject property, finding her to be a vexatious litigant at this point would only create procedural confusion.

After further consideration, the Court mistakenly referred the default proceedings against Jason Tarrell to the Commissioner. Because the Court ruled that Jason Tarrell has no ownership, title, or right to possess the property, the Court's dismissal of CV2018-053929 (consolidated) as

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to Northern Manor Townhouse Association must also apply to Jason Tarrell. Dismissal against Jason Tarrell renders any default proceedings against him as moot.

**IT IS FURTHER ORDERED** that Defendants' request to declare Plaintiff to be a vexatious litigant is denied for the reasons stated above.

**IT IS FURTHER ORDERED** dismissing case no. CV2018-053929 (consolidated) in its entirety with prejudice as to all Defendants and Intervenor. Any proceedings or hearings related to the default proceedings against Jason Tarrell are, therefore, vacated as moot.

/S/ HON. THEODORE CAMPAGNOLO

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HON. THEODORE CAMPAGNOLO  
JUDGE OF THE SUPERIOR COURT