

IN THE SUPREME COURT OF THE STATE OF NEVADA

IAN MURRAY AND HAZEL MURRAY,
INDIVIDUALLY,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
ELIZABETH GOFF GONZALEZ,
DISTRICT JUDGE,

Respondents,

and

TRIPLE BRAIDED CORD, LLC; AND
THE WOLF FIRM,
Real Parties in Interest.

No. 47922

FILED

SEP 08 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER DENYING PETITION FOR
WRIT OF MANDAMUS

This is an original petition for a writ of mandamus that challenges a district court order expunging a notice of lis pendens in a real property case.

Having reviewed the petition, we conclude that extraordinary relief is not warranted and decline to intervene.¹ Specifically, we note that the deed of trust under which petitioners purchased their interest—as


¹See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).


identified by the last four digits of the deed's document number, 4671—contained a provision requiring the borrower to meet his obligations “under any mortgage, deed of trust or other security agreement with a lien which has priority over this Deed of Trust,” and thus implicitly recognized that the deed may be subordinated to another deed. The deed of trust under which real party in interest Triple Braided Cord, LLC (“TBC”) obtained its interest—as identified by the last four digits of its document number, 4670—did not contain such language. Additionally, despite the identical time of recordation with the Clark County Recorder, the lower sequential document number of TBC's deed of trust (4670) appears to indicate that it was filed before petitioners' deed of trust (4671), since the county recorder is required by NRS 247.100(1) to record each document “in the order in which it is received” and NRS 247.110(1)(a)(2) also requires the recorder to note the document number on each document. Thus, it appears from both the language of the deeds and the document numbers that petitioners' deed of trust was junior to TBC's deed of trust.


Moreover, petitioners had no interest in the property on November 29, 2005, when the trustee of TBC's deed recorded the statutory notice of default and election to sell as required by NRS 107.080(3). Petitioners had constructive knowledge of the impending foreclosure under TBC's deed of trust before purchasing their junior interest in the property on February 6, 2006, and were entitled to no further statutory notice.

Consequently, it appears that petitioners are not likely to prevail in the underlying action or do not have a fair chance of success on the merits, so that the district court did not err in expunging their notice of lis pendens under NRS 14.015. Accordingly, the writ petition is denied.

It is so ORDERED.


_____, J.
Gibbons


_____, J.
Maupin


_____, J.
Douglas

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Peel Brimley LLP
Brooks & Associates
Edgar C. Smith III
Clark County Clerk