

Real Property, Financial Services, & Title Insurance Update: Week Ending March 12, 2021

March 12, 2021

Real Property Update

- **Foreclosure:** Mortgagee failed to offer competent, substantial evidence to prove that it had complied with all of the conditions of the mortgage contract that were prerequisites to allowing it to foreclose on the security – [Christ v. Deutsche Bank](#), No. 2D19-4131 (Fla. 2d DCA Mar. 12, 2021) (reversed and remanded with instructions)
- **Quiet Title / Invalid Deed:** Deed purporting to transfer title from an intermediate party to the defendant was invalid on its face – [George Anderson Training & Consulting Inc. v. Miller Bey Paralegal & Fin., LLC](#), No. 2D19-4413 (Fla. 2d DCA Mar. 12, 2021) (reversed and remanded)
- **Specific Performance:** Trial court erred in ordering specific performance with abatement where buyer's remedies in the event of title defects were limited by the terms of the contract and despite having two options, buyer exercised neither – [Mori v. Fortune Capital Partners, Inc.](#), Nos. 3D19-1194, 3D19-1359 (Fla. 3d DCA Mar. 10, 2021) (reversed and remanded)

Financial Services Update

- **FDCPA / Process Server Exemption:** Process server exemption to debt collector definition did not support dismissal because of allegations that defendant took on a role beyond solely being a process server when he made false claims about personal service and provided perjured affidavits – [Avina v. Patenaude & Felix, APC](#), No. 3:20-cv-00166 (S.D. Cal. Mar. 9, 2021) (denying in part dismissal motion)

- **FDCPA / Time-Barred Debts:** FDCPA's prohibitions regarding pursuing “time-barred debts” applied even if it was unclear at the time a debt collector sued or threatened suit whether a lawsuit was time-barred under state law, as FDCPA takes a strict liability approach – [Kaiser v. Cascade Capital, LLC](#), No. 19-35151 (9th Cir. Mar. 9, 2021)

Title Insurance Update

No cases of interest to report.

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