

Client Alert: Dennis Hamilton v. Murray Rottenberg

3 Sep 2020

Christopher A. Glaser

The Court of Special Appeals of Maryland recently resolved a matter of first impression as to whether a judgment lien attaches on property during that brief period after a contract for sale has been executed but prior to legal title passing at closing. As this was the first level of appeal, it is likely that the losing party will seek review by the Court of Appeals.

In *Dennis Hamilton v. Murray Rottenberg*, the Rottenbergs executed a contract to purchase property from Hija Carmel in Montgomery County, Maryland on July 6, 2017. The contract price was insufficient to pay all then-existing liens on the property. On September 28, 2017, Dennis Hamilton obtained a judgment against Mr. Carmel. On October 3, 2017, the Rottenbergs closed on the property without knowledge of the new judgment lien.

Recognizing that the doctrine of equitable conversion describes the “metaphysical moment” beginning at the point where all contract contingencies have been met and equitable title passes to the Rottenbergs, the issue before the Court of Special Appeals was whether all contract contingencies were satisfied prior to the September 28, 2017 judgment date. Hamilton argued that, in addition to the financing contingency which had been satisfied prior to the judgment date, the “sell free and clear” provision was a contingency which had not been so satisfied. Both the trial court and the Court of Special Appeals disagreed. Unlike the financing contingency, there existed no language within the provision indicating that either party intended it to be a contingency as it could have been waived by the Rottenbergs. Moreover, the provision allowed title issues to be resolved 30 days after closing which demonstrated that the parties did not intend closing to be contingent on resolving the title issues. The judgment, having been obtained after equitable title passed to the Rottenbergs, did not attach to the property.

Jackson & Campbell, P.C. represents title insurers and insureds in Maryland, Virginia, and Washington, D.C. and we strive to keep our clients and other title professionals up to date on various developments in the law. Additionally, we present no cost in-house updates of the nation’s most noteworthy cases and national trends following the spring and fall American Land Title Association’s Title Counsel meetings.

If you have any questions about this case or laws impacting real estate in and around the Washington, D.C. region, feel free to contact us. Our [Real Estate Litigation and Transactions](#) Practice Group is ready to assist.

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