

STATEMENT OF LEGAL ISSUES

The Finnemans raise the following issues in this appeal:

- I. Did the trial court err in granting the vendees' redemption rights to Ann Arnoldy, a stranger to the contracts for deed, rather than allowing the contract for deed vendees, the Finnemans, or their assignee partnership Rock Creek Farms, to exercise their contract for deed vendee's statutory right to cure a default under the contracts for deeds?

The trial court stripped from the contract for deed vendees, the Finnemans and their assignee partnership Rock Creek Farms, the vendee's statutory right to cure the default in the two contracts for deeds. The trial court allowed a junior lienholder, Ann Arnoldy, a stranger to the contracts for deed, to exercise the vendees' right to redeem all of the 9,200 acres of land from the contract for deed foreclosure. The trial court erred in doing so. If allowed to stand, the Finnemans and their assignee partnership Rock Creek Farms will lose millions of dollars of equity in the land built up since 1996. The most relevant cases concerning this issue are:

- a) *VanGorp v. Sieff*, 624 N.W.2d 712; (S.D. 2001)
- b) *Anderson v. Aesoph*, 697 N.W. 2d 25 (S.D. 2005); *Scott v. Hetland*, 213 N.W. 732 (S.D. 1927); and
- c) *Heikkila v. Carver*, 378 N.W.2d 214 (S.D. 1985); Henderson, Justice (dissenting).

The most relevant statutory authority concerning this issue is:

- a) SDCL § 21-50-3.

II. Did the trial court err by substituting Ann Arnoldy for the contract vendees David and Connie Finneman and their assignee partnership Rock Creek Farms, and by transferring to her their vendees' statutory redemption rights?

The trial court substituted Ann Arnoldy, a stranger to the two contracts for deed, for the contract vendees, the Finnemans and their assignee partnership Rock Creek Farms, and gave her their statutory vendees' redemption rights, even though Ann Arnoldy made a motion to be substituted for CLW, and even though Ann Arnoldy requested that her motion be considered post trial. The trial court did not consider Ann Arnoldy's substitution motion post trial.

The most relevant case concerning this issue is:

a) *Ostwald v. Ostwald*, 331 N.W.2d 64 (S.D. 1983).

The most relevant statutory authority or rule of civil procedure concerning this issue is:

a) SDCL § 15-6-25 (c).

III. Did the trial court err in denying Finnemans' motion to invalidate the Arnoldy deed, which was secretly prepared by counsel for Arnoldy, and signed and filed without prior notice to or prior approval of the trial court, and without prior notice and opportunity to be heard for the landowner vendor L & L Partnership, or the vendees, the Finnemans or their assignee partnership Rock Creek Farms?

The secret deed in the Rabo case wrongfully granted to Arnoldy all of the 9,200 acres of contract for deed land, and the millions of dollars of the vendees' equity in the land built up since 1996. The Arnoldy's secret deed transferred to Ann Arnoldy, without notice or opportunity to be heard, an unearned

windfall to her of millions of dollars of equity in the land that was earned over the years by the Finnemans and their assignee partnership Rock Creek Farms. The trial court denied Finnemans' motion to invalidate the secret deed, even though the trial court, the landowner L & L Partnership, the Finnemans, and their assignee partnership Rock Creek Farms, had not been given any prior notice of the Arnoldy's preparation, signing, and filing of the secret deed. The most relevant cases concerning this issue are:

- a) *Texas American Bank/Levelland v. Morgan, et. al.*, 733 P.2d 864, 865, 105 N.M. 416 (1997); and
- b) *Manufacturer's Bank & Trust Co. of St. Louis v. Lauchli*, 118 F2d 607, 610 (8th Cir 1941).

The most relevant statutory authorities concerning this issue are:

- a) SDCL § 21-47-1 et. seq.;
- b) SDCL § 21-50-1 et. seq.; and
- c) SDCL § 21-52-1 et. seq.

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STATEMENT OF LEGAL ISSUES

L & L Partnership raises the following issues:

- I. Did the Trial Court award adequate damages to Seller, L & L Partnership, under its two contracts for Deed?

The Trial Court failed to include in its judgment all sums due to L & L according to the contract terms.

Relevant authorities:

Estate of Moncur, 2012 S.D. 17 ¶ 10

- II. Did the Trial Court improperly modify the contracts by bifurcating performance of the contracts among vendees and their claimed successors in interest?

The Trial Court's judgment imposed obligations on L & L to issue deeds to parties outside the contract and to collect damages from several potential redemptioners.

Relevant authorities:

Kroeplin Farms General Partnership v. Heartland Crop Insurance, 430 F.3d 906, 911 (8th Cir. 2005)

Hartman v. Wood, 436 N.W. 2d 854 (S.D. 1989)

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III. Did the Trial Court err in ordering equitable adjustment of damages and redemption rights among vendees and their claimed successors in interest?

The Trial Court shifted responsibility for payment of damages among vendees and their successors in interest without hearing evidence on the issue and changed the Seller's rights.

Relevant authorities:

Schultz v. Jibben, 513 N.W.2d 923 (S.D. 1994)

Pam Oil, Inc. v. Travex International Corp., 336 N.W.2d 672, 674 (S.D. 1982)

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