

Kody and Janet Kothmann and Kody
Kothmann, Trustee
Appellants

□

From the 72nd District Court
of Lubbock County

v. No. 07-08-0070-CV

□

February 27, 2009

Genesis Tax Loan Services, Inc. and
M. Suzanne Frossard, Substitute
Trustee
Appellees

□

Opinion by Justice Pirtle

J U D G M E N T

Pursuant to the opinion of the Court dated February 27, 2009, it is ordered, adjudged and decreed that part of the trial court's judgment denying injunctive relief is affirmed. It is further ordered that as to that part of the trial court's judgment rendering declaratory relief, we reverse the judgment of the trial court and render declaratory judgment in favor of Kody and Janet Kothmann and Kody Kothmann, Trustee, as follows:

- (1) As to Lot No. 235, Oak Park Addition to the City of Lubbock, Lubbock County, Texas, Kody and Janet Kothmann and Kody Kothmann, Trustee's deed of trust recorded in Volume 6973, Page 98 of the Real Property Records of Lubbock County, Texas, is senior to and has priority over Genesis Tax Loan Services, Inc.'s deed of trust recorded in Volume 9196, Page 271 of the Real Property Records of Lubbock County, Texas.
- (2) As to Lot No. 242, Oak Park Addition to the City of Lubbock, Lubbock County, Texas, Kody and Janet Kothmann and Kody Kothmann, Trustee's deed of trust recorded in Volume 7481, Page 270 of the Real Property Records of Lubbock County, Texas, is senior to and has priority over Genesis Tax Loan Services, Inc.'s deed of trust recorded in Volume 9196, Page 283 of the Real Property Records of Lubbock County, Texas.
- (3) As to Lot No. 6, Taylor-Jackson Addition to the City of Lubbock, Lubbock County, Texas, Kody and Janet Kothmann and Kody Kothmann, Trustee's deed of trust recorded in Volume 7481, Page 276 of the Real Property Records of Lubbock County, Texas, is senior to and has priority over Genesis Tax Loan Services, Inc.'s deed of trust recorded in Volume 9196, Page 279 of the Real Property Records of Lubbock County, Texas.

- (4) As to Lot No. 18, Sportsman Addition to the City of Lubbock, Lubbock County, Texas, Kody and Janet Kothmann and Kody Kothmann, Trustee's deed of trust recorded in Volume 7481, Page 282 of the Real Property Records of Lubbock County, Texas, is senior to and has priority over Genesis Tax Loan Services, Inc.'s deed of trust recorded in Volume 9196, Page 275 of the Real Property Records of Lubbock County, Texas.
- (5) All other declaratory relief is denied.

Furthermore, we reverse the judgment regarding the issue of attorney's fees and remand that issue to the trial court for further proceedings.

It is further ordered that appellee Genesis Tax Loan Services, Inc. pay all costs in this behalf expended for which let execution issue.

It is further ordered that this decision be certified below for observance.

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