

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 13-11487
Non-Argument Calendar

D.C. Docket No. 4:11-cv-00224-WTM-GRS

TITAN CONSTRUCTION COMPANY, LLC,

Plaintiff - Appellant,

versus

CBC NATIONAL BANK,

Defendant - Appellee.

Appeal from the United States District Court
for the Southern District of Georgia

(October 7, 2016)

Before HULL, WILSON and ROSENBAUM, Circuit Judges.

PER CURIAM:

Appellant Titan Construction Company, LLC (“Titan”) appeals the district court’s order denying its motion for summary judgment and granting CBC National Bank’s (“CBC”) motion for summary judgment. Through a series of loans and security deeds, Titan borrowed over \$6,000,000 from CBC. Titan defaulted on the loans. CBC then foreclosed on several of the properties on July 7, 2009. CBC was the high bidder for each of those properties at the foreclosure sale with credit bids totaling \$3,266,738.18. That total bid represented the outstanding principal owed by Titan on each of the foreclosed properties plus CBC’s incurred expenses, but not interest, attorney’s fees, or late fees. Titan concedes that its indebtedness to CBC exceeded \$3,266,738.18 on July 7, 2009.

After the foreclosure, CBC discovered that the legal descriptions of the properties in the deeds were inadequate. CBC then foreclosed again on December 1, 2009. CBC again extended credit bids totaling \$3,266,738.18 and was again the high bidder.

Titan then sued CBC in state court for unjust enrichment and conversion, alleging that CBC received excess money because there were two foreclosures of Titan’s property. Titan added the amounts of CBC’s credit bids, over three million dollars from each foreclosure sale, together to determine the total amount received by CBC was over \$6,000,000. Titan claimed that it was entitled to the amount

received by CBC from the two foreclosures that exceeded the principal outstanding on the loans.

After review of the record and briefs, we conclude that Titan has not shown reversible error in the district court's grant of summary judgment to CBC and denial of summary judgment to Titan. Titan alleged that the first foreclosure sale satisfied its debts on those properties, making the second foreclosure a conversion and an unjust enrichment because CBC did not pay the excess amount received to Titan.

In reality, however, the first foreclosure was invalid, and CBC thus received no value from the foreclosure. The district court did not err in concluding that (1) the inadequate legal descriptions of the property prevented title to the property from passing to CBC; (2) CBC never acquired title from the invalid foreclosure because of the inadequate legal descriptions; and (3) CBC was within its rights to conduct a second, valid foreclosure. Even on appeal, Titan does not contest that the July 7, 2009 foreclosure was invalid or argue that the legal descriptions of the property were adequate.

Because the first foreclosure was invalid, CBC received no value from that transaction and title to the property only passed to CBC once. CBC received no

excess benefit, was not unjustly enriched, and did not convert any funds due to Titan.¹

AFFIRMED.

¹Additionally, we note that the jurisdictional issues in this case were resolved on remand to the district court.