

IN THE CIRCUIT COURT OF THE  
11TH JUDICIAL CIRCUIT IN AND  
FOR MIAMI-DADE COUNTY,  
FLORIDA

Case No. 2018-006435 CA 01

BLACKACRE, LLC, a Florida  
corporation and ANTONIO BRYANT,

Plaintiffs,

v.

THE ROCK ENTERTAINMENT, a  
Pennsylvania corporation, CHARLES  
SANDERS, an individual, and DTT  
NORTH, LLC, a Florida limited  
liability company,

Defendants.

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**ORDER ON PETITIONER’S EMERGENCY MOTION FOR AN *EX PARTE***  
**TEMPORARY INJUNCTION**

**THIS CAUSE** having come before the Court on Petitioner’s Emergency Motion for an *Ex Parte* Temporary Injunction, the Court, having considered the evidence presented, procedural history, argument of counsel and parties, all memoranda, and all relevant legal authority, hereby **ORDERS** and **ADJUDGES** as follows:

***Background:***

Petitioners, Antonio Bryant (hereinafter “Bryant”) and Blackacre, LLC (hereinafter “Blackacre”) (hereinafter collectively “Petitioners”), have filed the instant motion seeking a temporary injunction against Respondents, the Rock Entertainment, Charles Sanders, and DTT North, LLC (hereinafter “DTT”). Petitioners contend that a November 2, 2012 deed conveying a parcel of land located in North Miami Beach from Blackacre to the Rock Entertainment, to serve

as collateral for a loan, was fraudulently executed. The property in question is a parking lot located outside of a strip club. It is located between two lots owned by DTT.

Bryant claims he was in Miami at the time the deed was executed in Pennsylvania. Bryant's purported signature appears as binding authority for Blackacre. In addition to Bryant's name, the deed reflects the names of two witnesses, Laneda DeVaughn and Rhonda Davis. Further, it reflects the name of a notary, Lori A. Calhoun, and states that Bryant was personally known to her. After the deed was executed, it was recorded with the Miami-Dade County Clerk of Courts at book 28354 page 1197.

Sanders contends that Bryant was required to pay the property taxes on the parcel and he failed to do so in 2016 and 2017. Additionally, he asserts that Bryant defaulted on the terms of the loan. As a result, he approached a realtor and DTT expressed an interest in purchasing the property. A deal was reached and DTT acquired the property on February 20, 2018. A warranty deed conveying the property from the Rock Entertainment to DTT was recorded with the Miami-Dade County Clerk of Courts at book 3082 page 3168. Petitioners filed the instant injunction seeking immediate use of the property and voidance of the February 20, 2018 deed.

Although the injunction was filed on an *ex parte* basis, the Court ordered a hearing with notice to all parties. At the hearing, Bryant and Sanders presented diametrically opposed accounts of the chronology of events. Bryant produced a business record in an effort to demonstrate that he made purchases in Miami on the day the 2012 deed was executed. Sanders produced a handwriting expert who opined that Bryant had indeed signed the deed. DDT contends that it is a bona fide purchaser without notice of any defect of title, thus, any cause of action remains between the parties to the initial deed, only.

***Legal Analysis:***

A party seeking an injunction under Florida case law must demonstrate: (1) irreparable harm; (2) a clear legal right; (3) an inadequate remedy at law; and (4) consideration of the public interest. *Hiles v. Auto Bahn Federation, Inc.*, 498 So. 2d 997, 998 (Fla. 4th DCA 1986), *citing Finkelstein v. Southeast Bank, N.A.*, 490 So. 2d 976, 980 (Fla. 4th DCA 1986). Since a temporary injunction is an extraordinary remedy, it should be granted sparingly and only after the moving party has alleged and proved facts entitling it to relief. *Id.*, *citing Contemporary Interiors, Inc. v. Four Marks, Inc.*, 384 So. 2d 734, 735 (Fla. 4th DCA 1980).

Under the common law, a bona fide purchaser for value without notice, even from a fraudulent grantee, acquires good title. This rule was explained in *Neal v. Gregory*, 19 Fla. 356 (1882), a vigorously contested dispute involving the acquisition of lands in exchange for 100,000 oranges, as follows:

The rule is that a *bona fide* purchaser for value without notice from a fraudulent grantee gets a good title. As against the debtor the fraudulent deed is effectual, and the fraudulent grantee has a title and right to alienate. The only infirmity in his title is its liability to be impeached by creditors. As to all others it is perfect, and when it has passed into the hands of a *bona fide* purchaser for value without notice even this infirmity is cured and the title becomes sound and indefeasible.

*Id.* at 367, *citing* Bump on Fraud. Con., 2d Ed., 482; *Jackson vs. Walsh*, 14 Johnson, 415 (internal quotation omitted). This common rule has been codified through the enactment of section 695.011, Florida Statutes (2018), which states:

No conveyance, transfer, or mortgage of real property, or of any interest therein, nor any lease for a term of 1 year or longer, shall be good and effectual in law or equity against creditors or subsequent purchasers for a valuable consideration and without notice, unless the same be recorded according to law; nor shall any such instrument made or executed by virtue of any power of attorney be good or effectual in law or in equity against creditors or subsequent purchasers for a valuable consideration and without notice unless the power of attorney be recorded before the accruing of the right of such creditor or subsequent purchaser.

*Id.* This adage is further emphasized in section 697.01(1), Florida Statutes (2018), which provides:

All conveyances, obligations conditioned or defeasible, bills of sale or other instruments of writing conveying or selling property, either real or personal, for the purpose or with the intention of securing the payment of money, whether such instrument be from the debtor to the creditor or from the debtor to some third person in trust for the creditor, shall be deemed and held mortgages, and shall be subject to the same rules of foreclosure and to the same regulations, restraints and forms as are prescribed in relation to mortgages.

*Id.*

In the instant case, there was no evidence adduced that DTT was anything but a bona fide purchaser without notice of fraud. DTT mortgaged the property to partially finance the acquisition and tendered over \$100,000.00 in cash. No evidence of collusion was presented. To grant an injunction would necessarily divest DTT of its immediate right to the property, causing it to lose approximately \$300,000.00 per year in revenue. Without demonstrating that DTT was either on notice or was not a bona fide purchaser for value, Petitioners have not proved a clear legal right or a likelihood of success on the merits, as required for issuance of an injunction.

Where money damages or other relief are available, a preliminary injunction will normally be denied, though extraordinary circumstances may give rise to irreparable harm. 11A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice and Procedure § 2948.1. “The possibility that adequate compensatory or other corrective relief will be available at a later date, in the ordinary course of litigation, weighs heavily against a claim of irreparable harm.” *Sampson v. Murray*, 415 U.S. 61, 90 (1974) (quoting *Virginia Petroleum Jobbers Ass'n v. Fed. Power Comm'n*, 259 F.2d 921, 925 (D.C. Cir. 1958)). “[A]n alleged loss of business will not support a finding of irreparable harm.” *State Dep't of Transp. v. Kountry Kitchen of Key Largo*, 645 So. 2d 1086 (Fla. 3d DCA 1994) (holding that an owner’s allegation it would suffer business losses if a sign

was removed was insufficient to justify the issuance of a temporary injunction), *citing B.G.H. Ins. Syndicate, Inc. v. Presidential Fire & Casualty Co.*, 549 So. 2d 197, 198 (Fla. 3d DCA 1989), *review dismissed*, 557 So. 2d 867 (Fla. 1990) (“For injunctive relief purposes, irreparable harm is not established where the potential loss can be adequately compensated for by a monetary award.”).

In the instant dispute, Petitioners contend that the deprivation of use of the parking lot, purchased in an “arm’s length transaction,” has created significant business losses. Bryant testified that other parking alternatives were in use. As the business is established and business losses can be calculated, and the lack of parking has caused inconvenience but does not require the strip club to close, Petitioners have failed to demonstrate an inadequate remedy at law or irreparable harm.

With regard to the public interest, weighing the equities, it appears that Florida law favors protecting the bona fide purchaser and allowing litigation between the original contracting entities to ensue to determine whether anyone engaged in fraud. Finally, DDT has represented that it will not convey the property or further encumber the property during the pendency of the case at bar. *See State Inv. Holding, Inc. v. Merrick Partnership, LLC*, 103 So. 3d 232 (Fla. 3d DCA 2012).

As the Court has concluded that the relief sought would necessarily divest DDT of the property and the law does not support the issuance of an injunction with that result, the Court declines to further elaborate regarding the allegations of fraud, except to note that the evidence was slightly insufficient to meet the heightened standard required for issuance of an injunction.

***Conclusion:***

**WHEREFORE**, Petitioner’s Emergency Motion for an *Ex Parte* Temporary Injunction is hereby **DENIED**.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, on 08/02/18.



BRONWYN C. MILLER  
CIRCUIT COURT JUDGE

**No Further Judicial Action Required on THIS MOTION  
CLERK TO RECLOSE CASE IF POST JUDGMENT**

The parties served with this Order are indicated in the accompanying 11th Circuit email confirmation which includes all emails provided by the submitter. The movant shall IMMEDIATELY serve a true and correct copy of this Order, by mail, facsimile, email or hand-delivery, to all parties/counsel of record for whom service is not indicated by the accompanying 11th Circuit confirmation, and file proof of service with the Clerk of Court.

Signed original order sent electronically to the Clerk of Courts for filing in the Court file.