

Summary of SC92649, Wells Fargo Bank, N.A. as trustee for the benefit of the certificate holders, Park Place Securities, Inc., asset backed pass-through certificates Series 2005-WCW2 v. William D. and Susan M. Smith

Appeal from Jefferson County circuit court, Judge Stephen Bouchard
Argued and submitted January 3, 2013; opinion issued March 19, 2013

Attorneys: The Smiths were represented during arguments by John Campbell and Erich Vieth of the Simon Law Firm in St. Louis, (314) 241-2929, and Alicia Campbell of Campbell Law LLC in St. Louis, (314) 588-8101; and Wells Fargo was represented by Thomas C. Walsh, Louis F. Bonacorsi, John J. Schoemehl of Bryan Cave LLP in St. Louis, (314) 259-2000, and Benjamin C. Struby of Millsap & Singer in St. Louis, (636) 537-0110.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: The Smiths appeal a decision granting summary judgment to Wells Fargo for unlawful detainer. In a 6-1 opinion written by Judge Paul C. Wilson, the Supreme Court of Missouri affirms the circuit court's decision. Section 534.210, RSMo, is not unconstitutional and the Smiths failed to prove there was a genuine issue of fact regarding Wells Fargo's right to possession.

In a dissenting opinion, Chief Justice Richard B. Teitelman disagrees with the principal opinion that section 534.210 does not violate due process. He writes separately to explain why he believes section 534.210 does violate due process.

Facts: The Smiths purchased their home using, in part, the proceeds of a loan from Argent Mortgage Company. They signed a promissory note and deed of trust containing a power of sale, which authorized the trustee to foreclose and sell the home, following notice to the Smiths, in the event of an uncured default on the note. The home was foreclosed on and sold to Wells Fargo, following notice to the Smiths. The Smiths failed to vacate the premises and Wells Fargo brought an action for unlawful detainer. The Smiths filed 31 affirmative defenses and four counterclaims, including a claim that section 534.210 regarding inquiring into a merit of title, is unconstitutional. Wells Fargo moved to dismiss the affirmative defenses and counterclaims alleging they exceeded the statutory scope of issues allowed under section 534.210, and moved for summary judgment on the unlawful detainer claim. The associate circuit court granted both motions, and the Smiths filed for a trial de novo. Following the de novo proceedings the circuit court granted summary judgment to Wells Fargo.

AFFIRMED.

Court en banc holds: Although the Smiths failed to reassert their affirmative defenses and counterclaims at the trial de novo, both parties proceeded throughout the trial de novo as if the associate circuit court's disposition had been adopted by the circuit court. This Court concludes the associate circuit court's disposition was adopted by the court in the trial de novo and implicitly incorporated into its final judgment. Unlawful detainer claims in Missouri are limited in scope by the state statutes and, therefore, equitable defenses and counterclaims are not

permitted in response to such claims. Unlawful detainer actions are designed to resolve only the immediate right to possession between the parties to the case, not to resolve questions of ownership or validity of title. The Smiths' claim that section 534.210 creates a presumption that title is proved merely by filing for unlawful detainer, which violates substantive and procedural due process, fails because validity of title is not relevant to or decided by the present action. The Smiths' claim that section 534.210 violates state and federal equal protection also fails because limiting unlawful detainer actions to deciding solely the question of possession, and leaving questions of ownership and validity of title for separate actions, does not violate equal protection. The Smiths' claim that rules 55.32(a) and 55.08 are procedural and thus supersede section 534.210 also fails. Section 534.210 establishes the substantive scope of unlawful detainer actions and limits the issues which may be raised in an unlawful detainer action, whether by counterclaim, affirmative defense or other procedural device. Finally, the Smiths' claim that section 534.210 prevents them from challenging standing or Wells Fargo's status as real party in interest fails because the only challenges to standing prohibited by section 534.210 are those challenges involving attacks on the validity of title, which are reserved for separate actions. A foreclosure purchaser's right to possession is based on the fact of the sale, not on the ultimate validity of the title that the deed from the sale reflects. To challenge the foreclosure the Smiths could have sued to enjoin the sale from occurring or brought a separate action challenging Wells Fargo's title and seeking a stay of the unlawful detainer action.

Dissenting opinion by Chief Justice Teitelman: The author disagrees with the principal opinion that section 534.210 does not violate due process. A basic precept of due process is that one should have a reasonable opportunity to be heard. The impact of section 534.210 is to prohibit an unlawful detainer defendant from disputing the dispositive issue of title. Homeowners facing an unlawful detainer action are unlikely to have financial means to bear the legal costs of a separate action. Even if they do have the financial means, the home has already been sold by that time and a successful action would be too late.