

Supreme Court of Florida

ORIGINAL

No. 81,375

CARTERET SAVINGS BANK, Petitioner,

vs.

CITIBANK MORTGAGE CORP., Respondent.

[February 24, 1994]

OVERTON, J.

We have for review Citibank Mortgage Corp. v. Carteret Savings Bank, 612 So. 2d 599, 602 (Fla. 4th DCA 1992), in which the district court certified the following question as one of great public importance:

WHERE A THIRD PARTY MORTGAGE LOAN IS USED NOT ONLY FOR THE PURPOSE OF PURCHASING PROPERTY, BUT IN ADDITION, FOR CONSTRUCTING IMPROVEMENTS ON THE PROPERTY, IS THE ENTIRE AMOUNT OF THE MORTGAGE ENTITLED TO PRIORITY AS A PURCHASE MONEY MORTGAGE OVER A GENERAL JUDGMENT CREDITOR OF THE MORTGAGOR?

After the district court certified this question and we accepted jurisdiction, the parties in this case reached a

settlement. Consequently, we need not answer the certified question for purposes of resolving the dispute at issue here. However, this is a question of first impression in Florida that is likely to arise in the future, and the states that have addressed the definition of a purchase money mortgage in this context are divided. Therefore, we choose to answer the question in the negative and adopt, in full, the opinion of the district court, holding that only the portion of a mortgage loan extended for the purpose of purchasing property and existing improvements is entitled to priority as a purchase money mortgage; priority in favor of a purchase money mortgage does not extend to sums advanced for the improvement of real property.

It is so ordered.

BARKETT, C.J., and McDONALD, SHAW, GRIMES, KOGAN and HARDING, JJ., concur.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

Application for Review of the Decision of the District Court of
Appeal - Certified Great Public Importance
Fourth District - Case No. 91-2185

(Palm Beach County)

Alfred A. Lasorte of Alfred A. Lasorte, Jr., P.A., West Palm
Beach, Florida; and William R. H. Broome and Randy D. Ellison of
Broome, Kelley, Aldrich & Warren, P.A., West Palm Beach, Florida,

for Petitioner

Kenneth S. Hoffman, Miami, Florida,

for Respondent