

No: 20-1242

TO THE  
SUPREME COURT OF THE UNITED STATES

Frances Endencia

Petitioner

vs

Mario & Leticia Arce & Wells Fargo

Respondents

=====

From the Illinois Supreme Court

**Petition for Writ of Certiorari**

**Adverse Possession Claim with Payment of Real**

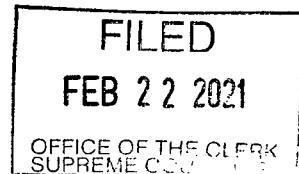
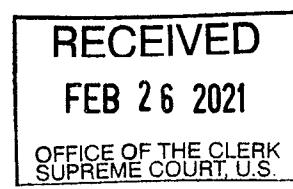
**Estate Taxes on a Securitized Mortgage.**

**Oral Argument Requested**

Frances Endencia, DVM, Petitioner in pro sec

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## **I. Questions Presented**

**1) In pursuant to Constitutional Amendment XIV**

§ 1, where the banks such as Bank of America & Wells Fargo separated the mortgage and the note via securitization and sold the mortgage to numerous investors who did not pay real estate taxes. The lenders continue to accept payments for the unsecured note and failed to disclose to the homeowner that the real estate is not secured by mortgage. Homeowner pays the real estate taxes on the unsecured note. After eight years of paying the real estate taxes, can the homeowner remove cloud of title and own the real estate mortgage(deed)?

Who owns the mortgage(deed)?

**2) 18 US Code § 1031 (a) (1), Bank of America**

(lender) failed to disclose to petitioner that the note was separated from the mortgage before closing. First

American Title insurance knew about this and did not disclose the cloud in title and made her pay \$8,190.91. in settlement fees when there was no title insurance. The lack of title insurance was disclosed in August 2015. In December 14-16, 2015 the respondents evicted the petitioner Frances without a court order and stole everything she had. The stolen property is worth more than what she owes the lender. Petitioner paid real estate taxes from 2006 thru 2013. Can Petitioner Frances own 235 S Hale Addison Il 60101 free from cloud in title in pursuant to 735 ILCS 5/13-109 ~ the law of adverse possession claims with color of title?

## **II. Corporate Disclosure Statement**

235 S Hale LLC is currently dissolved. This LLC was owned by petitioner, Frances Endencia and her daughter, Altessia Endencia, as heir.

### **III. Procedural History Directly Related**

- 1. Countrywide Home Loans securitized 235 S Hale St Addison IL 60101 when Chaidez utilized Countrywide Home Loans in 2005.**
- 2. Plaintiff-Frances purchased the property in May 2007 and utilized Bank of America as a lender. The securitization of first mortgage were not disclosed at closing or any time thereafter.**
- 3. The securitization of first mortgage is illegal in Illinois.**
- 4. Bank of America went to another state to securitize 235 S Hale by December 2007 at the Securities Exchange Commission (SEC) as Banc of America Certificate Holders 2007-5, with Wells Fargo as trustee, by December 2007.**
- 5. January 2008, SEC illegalized the securitization of first mortgages.**

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A.	Order IL Supreme Court on Sept 30, 2020	
B.	Order IL Appellate Court 2nd	
District Judgment entered on May 12, 2020		
C.	Warranty Deed Chaidez to Endencia	
Dated May 16, 2007		
D.	Real Estate Taxes Paid 2006-2014	
	D-1. 2006	D-6. 2011
	D-2. 2007	D-7. 2012
	D-3. 2008	D-8. 2013
	D-4. 2009	D-9. 2014
	D-5. 2010	
E.	Losses from eviction Dec 14-16, 2015	
F.	Motion to add Ex DuPage Sheriff as Defendant	
G.	Amended Complaint	

## **V. Definitions**

**Mortgage Backed Securities<sup>1</sup>** is a type of asset-backed security which is secured by a mortgage or collection of mortgages. The mortgages are aggregated and sold to a group of individuals that securitizes, or packages, the loans together into a security that investors can buy.

### **Securitization of Subprime Mortgages<sup>2</sup>**

At first, mortgage-backed securities comprised of stable mortgages with good credit ratings. Investors became desperate to buy more mortgage-backed securities, so lenders had to create more of them.

1. [https://en.wikipedia.org/wiki/Mortgage-backed\\_security](https://en.wikipedia.org/wiki/Mortgage-backed_security)

November 12, 2020

2 <https://streetfins.com/financial-crisis-breakdown-part-one-securitization-of-mortgages/> November 12, 2020

However, the number of mortgages owned by borrowers with good credit ratings was very small. So, in order to create more mortgage-backed securities, banks needed more mortgages.

Banks began to loosen their standards for who can qualify for a mortgage. They began to make mortgage loans to people with bad credit ratings and low income. These are *subprime mortgages*. The lenders would then bundle up the subprime mortgages, securitize them into mortgage-backed securities, and sell them to investors. Because these mortgages were subprime, they offered even higher returns to compensate for the higher risk of default, making MBS with subprime mortgages seem even more attractive.

Some places even began applying predatory lending practices to generate more mortgages such as *NINJA*

loans. Subprime lenders gave NINJA (No Income, No Job, and no Assets) loans without verification of income, employment, or asset ownership. Subprime lenders generally gave them to people who had poor credit scores. To make them affordable, they offered *adjustable mortgage rates* that would start off with a lower interest rate which then increased later on. The practice was relatively new so rating agencies

gave them good ratings. Historically, mortgage debt was safe. However, as the number of subprime mortgages being created grew, they became less safe.

*(§ 84a(1)(s) 18 U.S.C. § 1031)*  
*Frederick v. Bausch, 529 F.3d 476*

*(§ 84a(3) 18 U.S.C. § 1031)*  
*Frederick v. Bausch, 529 F.3d 476*  
*1000 Bausch Street, Frederick, CO 80513-3116*

*(§ 84a(6) 18 U.S.C. § 1031)*  
*1000 Bausch Street, Frederick, CO 80513-3116*

*(§ 84a(6) 18 U.S.C. § 1031)*  
*1000 Bausch Street, Frederick, CO 80513-3116*

788 N.E.2d 805, 808 (Ill. App. Ct. 1998) (page 11)

**Malone v. Smith** No 4-04-0156 IL App 4d

**Morgan v. White** 56 NE 3d 109 (Ill. App. Ct. 1998) (page 11)

**Northern Pacific Ry. Co. v. Townsend**, 190 U.S. 267

**Peters v. Greenmount Cemetery Ass'n**, 259 Ill. App. 3d 566, 569, 632 N.E.2d 187, 190 (1994). (page 11)

**Sanders v. Williams** 2013 IL App(5th) 110573-U (page 11)

**Tapley v Peterson**, 141 Ill App 3d 401, 404, 489 NE 2d 1170, 1172 (1986) (page 11)

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ILLINOIS V. VERNON (Continued)

## **VII. Petition for Writ of Certiorari**

Petitioner - Frances purchased 235 S Hale St Addison IL 60101 on May 16, 2007. She paid First American Title \$8,190.91 as settlement fees, which included 2006 real estate taxes. Bank of America, First American Title insurance and her legal representative, Michael Freeman failed to disclose to her the property is a mortgage-backed security instrument & she had to pay 2006 real estate taxes and settlement fees with no title insurance. She did not receive a copy of the (non-existent) title insurance.

In August 2015, eight years after closing, she received the First American Title Insurance Policy. The policy does not insure mortgage-backed securitized properties.

Petitioner-Frances paid real estate taxes from 2006 thru 2013. The certificate holders of Banc of

America 2007-5 owned the mortgage. The note and the mortgage are separated.

Just before Christmas, on December 14-16, 2015, Ex DuPage County Sheriff Zaruba performed an eviction without court order, trespassing & stealing everything plaintiff owned. Among the stolen property was rare coins (possessed by Ed Reeve) the keys to plaintiff's bank safe. Utilizing the color of the law, the defendants were able to access the bank safe and stole 3 original oil paintings of plaintiff in the first half of 2016 at the First Midwest Bank, located at 2601 W Schaumburg Road Schaumburg IL. 60194

Petitioner Frances & her daughter was processed to be homeless with no assets, including personal memorabilia such as photographs, trophies won, etc.

In 2020, new Illinois laws were created

a). 735 ILCS 5/12-901 Homestead Exemption of \$15k /

individual.

b). 735 ILCS 5/12-912. Sale of Possessions with

Payments for Homestead Exemption

c). 735 ILCS 5/13-205. Trespass.

#### **IX. Opinions Below**

Case was presented to the Illinois Circuit Court of the

18th District, County of DuPage, Illinois Appellate

Court of the Second District and the Illinois Supreme

Court. No opinions were given.

#### **X. Jurisdiction**

Petitioner Frances' case was dismissed with no

opinions. She is invoking the court's jurisdiction

under 28 USC § 1257, having timely filed this Petition

for Writ of Certiorari within 150 days of Illinois

Supreme Court Judgment, in pursuant to March 19,

2020 order.

## **X. Constitutional Provisions Involved**

**United States Constitution Amendment XIV § 1**

**"All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of laws."**

**735 ILCS 5/13-109 Adverse Possession with Payment of Taxes with color of title.**

**Payment of taxes with color of title.** "Except as provided in Section 13-109.1, every person in the actual possession of lands or tenements, under claim and color of title, made in good faith, and who for 7 successive

years continues in such possession, and also, during such time, pays all taxes legally assessed on such lands or tenements, shall be held and adjudged to be the legal owner of such lands or tenements, to the extent and according to the purport of his or her paper title. All persons holding under such possession, by purchase, legacy or descent, before such 7 years have expired, and who continue such possession, and continue to pay the taxes as above set forth so as to complete the possession and payment of taxes for the term above set forth, are entitled to the benefit of this Section."

Statutory Time Limit is 40 years, in pursuant to  
735 ILCS 5/13-118.

Major Fraud in purchase of securitized mortgage  
& theft of personal & business property of Petitioner-  
Frances in pursuant to 18 US Code § 1031 (a) (1)

**New Law (2020) 735 ILCS 5/12-901. Homestead**

**Exemption \$15,000 per individual.**

**New Law (2020) 735 ILCS 5/12-100 Personal**

**Property Exemption: Photos & other personal  
memorabilia.**

**New Law (2020) 735 ILCS 5/12-912.**

**Distribution of Sale of Possessions.**

**Article 12 of the Illinois Probate Act, 755 ILCS 5/12-1 et seq.**

## **XI. Statement of the Case**

1. Roberto Chaidez Jr sold 235 S Hale St Addison IL 60101 to Petitioner Frances on May 16, 2007. First American Title Insurance, Bank of America & Atty Michael Freeman (her legal representative) failed to disclose there was no title, no title insurance, the note was separated from the mortgage and the mortgage was part of a securitized mortgage pool, Banc of America Certificate Holders 2007-5.

2. At closing, Petitioner Frances paid 20% down payment of \$72,000 and First American Title Settlement fees of \$8,190.91. 2006 real estate taxes are included. See Appendix D.

3. She paid for the note and real estate taxes with the belief she had a mortgage from 2006 to 2014

4. She rented out the 3 units of 235 S Hale St Addison IL 60101 from May 17, 2007 thru 2015.

5. She paid for building utility bills (water, electricity and gas).

6. She paid for building insurance.

7. She lived in this building from 2011 - 2015.

8. In August 2015, she received a copy of the title insurance policy from Veron, the wife & secretary of Michael Freeman. It was then that she discovered First American Title Insurance Company does not insure properties where the note and the mortgage are

separated.

9. A failed sheriff sale occurred in May 9, 2013.

10. In December 14-16, 2015, ex Sheriff John Zaruba performed an eviction with no court order. He brought with him about 10 people for the theft and clean out, including Marge from the Village of Addison. He promoted the theft of Petitioner Frances' belongings.

11. Petitioner asked Ed Reeve, an acquaintance for help. Instead of helping her while she was at work, he helped himself to the goods, including rare coin. Some goods were returned and some he hid from her by bringing some goods to her daughter's residence. He talked her into allowing the procedure to occur and let her stay at his home, which lasted for about a year or so. (Petitioner Frances lost her livelihood when IDFPR suspended her veterinary license in August 2008. She

managed to get low paying jobs since IDFPR advertised her license was indefinitely suspended and employment background checks were reporting this.

In addition, she did not know what to do in this career change challenge.

### **XIII. Reasons for Granting this Writ**

A. The case is important because the mortgage lenders, title insurers are exploiting homeowners utilizing fraud & theft antics to close real estate sales and to increase their financial gains. Courts below did not make any decision.

B. Statutory time limit for real estate claims is forty years, in pursuant to 735 ILCS 5/13-118.

C. Seven years of real estate taxes payment and possession under the color of title, in pursuant to 735 ILCS 5/13-108. Petitioner Frances paid real estate taxes for 235 S Hale St Addison IL from 2006 - 2013.

3). Open Possession - Petitioner Frances rented out units, collected their rent, made improvements on property, paid utility bills and lived there.

D. This case is a vehicle to end securitized mortgage fraud, in pursuant to 18 US Code § 1031 (a) (1).

E. Illegal eviction & theft In December 14-16, 2015, ex DuPage County Sheriff John Zaruba performed an eviction with no court orders. In pursuant to 735 ILCS 5/9-117, it states that no eviction order can be obtained in an action brought under this Article may be enforced more than 120 days after the order was entered.

F. A vehicle to repossess 235 S Hale Street Addison IL 60101.

## XII. Conclusion

Petitioner Frances possessed and paid real estate taxes in good faith for 235 S Hale Street, Addison IL 60101 for tax years 2006 - 2013. She is asking this court for an order of repossession and legal, clear and sole title bearer be given to her and her daughter, Allessia,

She is also asking the special warranty deed provided to Mario & Leticia Arce be stricken.

(Note: Whenever the Arces are served by summons, or mail, they don't respond)

First American Title Insurance, Bank of America and Michael freeman failed to disclose to her that the property had no mortgage, no mortgage insurance and made her pay for 2006 real estate taxes. She discovered this fraud in August 2015, 8 years after closing. She is asking for an order sanctioning them

for fraud.

On December 14-16, 2015, DuPage County Sheriff John Zaruba illegally performed an eviction without a court order, in pursuant to 735 ILCS 5/9-117.

Petitioner is asking for an injunction order requiring Mario & Leticia Arce and all tenants they brought in to be removed at an agreed date.

All of her belongings to be returned or be paid whatever court deems just.

The statements in this Writ of Certiorari are true based on Petitioner - Frances Endencia's experience, knowledge and belief.

Respectfully Submitted,



Frances Endencia, Petitioner in pro sec

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