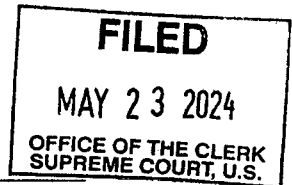


No.

~~23-7589~~

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Yuri Imuta - *PETITIONER*,

v.

U.S. BANK NA, successor trustee to Bank of America, NA, successor in interest
to LaSalle Bank NA, as trustee, on behalf of the holders of the WaMu Mortgage
Pass-Through Certificates, Series 2006-AR12 - *RESPONDENT*.

ON PETITION FOR A WRIT OF CERTIORARI TO
The Court of Appeal of the State of California,
Second Appellate District,
Appellate Division of the Superior Court,
State of California, County of Los Angeles

PETITION FOR A WRIT OF CERTIORARI

Yuri Imuta, *Petitioner in pro se*
5802 East Gossamer Street
Long Beach, California 90808
Phone: 562-425-3095

Counsels of Record for Respondent
Kayo-Manson Tompkins / Parnaz Parto
Steele LLP
17272 Red Hill Ave
Irvine, CA 92614-5628
Phone: 949-222-1161

QUESTIONS PRESENTED

A serious conflict exists between decisions rendered from this Court and lower state courts, along with constitutional provisions and statutes, in deciding whether or not a trial by jury in suits at common law must be preserved when the equity value in controversy exceeds twenty dollars.

The lower state courts disagree stating that the summary judgment procedure in a civil case does not violate the constitutional right to a trial by jury citing a long-held case law in California, *Scheiding v. Dinwiddie Constr. Co.*, (1999) 69 Cal.App.4th 64, 70. See Appendix A, Page 10.

Does case law supersede constitutional provisions in the courts of law? In this Case, a scheduled trial by jury was inappropriately vacated using a summary procedure to evict Petitioner from her house with an equity value which exceeds five hundred thousand dollars.

This Case uncovers a serious violation of the unalienable right of one of the people of the United States of America protected by the 4th Amendment, 5th Amendment and 7th Amendment of the Constitution of the United States of America, and coincidentally affects every citizen of the United States of America and courts of law.

This conflict calls for the supervisory power of this Court to resolve the conflict between the state case law and the Constitution of the United States of America, which has not, but should be, settled by this Court.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page. Petitioner, Yuri Imuta, is an individual representing herself and is one of the erroneously named Defendants, YURI I. LEE, and DOES 1 through 10, inclusive, in the state courts.

RELATED CASES

U.S. BANK NA, SUCCESSOR TRUSTEE TO BANK OF AMERICA, NA, SUCCESSOR IN INTEREST TO LASALLE BANK NA, AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE WAMU MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2006-AR12 v. YURI I LEE, et al., No. 22APLC00012, Appellate Division of the Superior Court State of California, County of Los Angeles. Judgment entered November 17, 2023.

U.S. BANK NA, SUCCESSOR TRUSTEE TO BANK OF AMERICA, NA, SUCCESSOR IN INTEREST TO LASALLE BANK NA, AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE WAMU MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2006-AR12 v. YURI I LEE, et al., No. 22LBUD00487, Superior Court of the State of California, County of Los Angeles. Judgment entered November 22, 2022.

U.S. BANK NA, SUCCESSOR TRUSTEE TO BANK OF AMERICA, NA, SUCCESSOR IN INTEREST TO LASALLE BANK NA, AS TRUSTEE, ON BEHALF OF THE HOLDERS OF THE WAMU MORTGAGE PASS-THROUGH CERTIFICATES SERIES 2006-AR12 v. YURI I LEE, et al., No. B335151, The Court of Appeal of the State of California, Second Appellate District. Order entered February 23, 2024, and corrected Order entered March 12, 2024.

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IN THE SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The opinion of the Appellate Division of the Superior Court of State of California, County of Los Angeles appears at Appendix A to the petition and is unpublished.

The judgment of the Superior Court of the State of California, County of Los Angeles appears at Appendix B.

The order of the Court of Appeal of the State of California, Second Appellate District denying a review without prejudice to petitioner's filing the petition to the California Supreme Court appears at Appendix C.

The order of the Court of Appeal of the State of California Second Appellate District correcting the earlier decision denying the petition for review by the California Supreme Court and a letter from the Supreme Court of California confirming the denial of a petition for review submitted to the Supreme Court of California on March 7, 2024 appears at Appendix D.

JURISDICTION

The date on which the highest state court decided this case denying discretionary review was March 12, 2024. A copy of the decision denying discretionary review from the State Court of Appeals appears at Appendix C and a copy of the decision denying discretionary review from the State Supreme Court appears at Appendix D.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1)

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment IV of the Constitution of the United States of America: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Amendment V of the Constitution of the United States of America: "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

Amendment VII of the Constitution of the United States of America: "In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law."

Article VI clause 2 of the Constitution of the United States of America: "This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

STATEMENT OF THE CASE

In this Case, neither 'true owner', 'beneficial holder', nor actual trustee of the deed of trust brought a proper, legally compliant nonjudicial foreclosure, instead recorded a trustee's deed upon sale after a public auction was cancelled, and served the three-day written notice to quit in an attempt to evict Petitioner, Yuri Imuta, ("Imuta"), from her home she purchased and lived since January 2004. The equity value of the house in controversy exceeds five hundred thousand dollars.

The attorneys doing business in the state of California known as KAYO MANSON-TOMPKINS, ESQ., and PARNAZ PARTO, ESQ., and their employer at the time, THE WOLF FIRM, A LAW CORPORATION, ("WOLF"), who claimed to represent the Respondent were promptly and properly informed that Petitioner tendered payments in full to settle any and all obligations with the U.S. Bank National Association approximately two years prior and were requested to make an investigation into Petitioner's payments tendered. WOLF remained silent and proceeded to file a unlawful detainer action against Imuta, and did so using an erroneous name, "YURI I. LEE and DOES 1 through 10, Inclusive", as the defendant(s) in the action.

The name of the plaintiff in the unlawful detainer action is titled "U.S. BANK NA, successor trustee to Bank of America, NA, successor in interest to LaSalle Bank NA, as trustee, on behalf of the holders of the WaMu Mortgage Pass-Through Certificates, Series 2006-AR12", a purport trust entity of which does not report to the Internal Revenue Service nor to the Franchise Tax Board. ("Respondent", "US BANK".)

Petitioner observed that none of the documents filed in the trial court by WOLF was Affidavits from Respondent attesting to the facts under penalty of perjury nor were

they any “evidence” in a form of declarations, statements or documents showing US BANK’s first-hand knowledge of fact, US BANK’s intent to pursue an eviction lawsuit against Petitioner, or US BANK hired WOLF as their counsels to represent US BANK. Further, none of the documents filed in the trial court by WOLF was admissible evidence of US BANK’s status as alleged “beneficiary” or its power to substitute a trustee or order a sale. In fact, there was evidence to the contrary that the U.S. Bank National Association received Petitioner’s payments tendered, the Trustee Sale had been canceled, and showing an authenticated written document received by Petitioner affirming the cancellation.

"[s]tatements of counsel in their briefs or argument while enlightening to the Court are not sufficient for purposes of granting a motion to dismiss or summary judgment."

Trinsey v. Pagliaro, 229 F. Supp. 647 (E.D. Pa. 1964)

Petitioner demanded a trial by jury at common law, filed and served Petitioner’s challenge at jurisdiction with her Affidavit acknowledged by a notary public, and gave Respondent through WOLF and the trial court opportunity to rebut or counter Petitioner’s claim to proceed at common law by their counter-Affidavit. A receipt of Petitioner’s challenge at jurisdiction was acknowledged by the trial court in its order. None of the parties to the action rebutted or countered Appellant’s challenge at jurisdiction and acquiesced to Petitioner’s claim by their silence. Further, Respondent, through WOLF, was given adequate due process through notices titled Notice of Conditional Acceptance, Notice of Fault and Opportunity to Cure, and Notice of Default and Nihil Dicit Judgment.

“Jurisdiction, once challenged, cannot be assumed and must be decided.” *Maine v. Thiboutot*, 100 S. Ct. 250

By the doctrine of acquiescence and the common law doctrine of estoppel, all agreed to proceed at common law and to preserve the Petitioner's right of trial by jury. A date of a trial by jury was scheduled by the trial court.

However, right before the scheduled trial by jury, the trial court judge and WOLF hijacked Petitioner into a "statutory court," in a jurisdiction unknown and shut the doors of Justice by WOLF requesting for summary judgment and the trial court granting summary judgment, directing to issue a writ of possession directing the sheriff to remove Petitioner from her home. See Appendix B. On the same day, the trial court vacated a scheduled trial by jury.

In *Sullivan v. Louisiana*, supra, 508 U.S. 275 (1993), The United States Supreme Court has declared denial of the right to trial by jury amounts to structural defects.

In *Weaver v. Massachusetts*, 137 S. Ct. 1899, The Supreme Court determined the rationales for classifying an error stating "if the error always results in fundamental unfairness." as one of the three structural defects.

The unalienable right of common law and trial by jury is protected by Amendment VII of the Constitution that states "In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, then according to the Rules of the Common Law."

The unalienable right of due process is protected by Amendment V of the Constitution that states "No person shall---be deprived of life, liberty, or property without due process of law." A similar provision exists in all the state constitutions; "The phrases "due course of law", and the "law of the land" are sometimes used; but all three of these

phrases have the same meaning and that applies conformity with the ancient and customary laws of the English people or laws indicated by parliament.” *Davidson V. New Orleans* 96 U.S. 97, 24, L Ed 616.

The unalienable right to be secure in her property is protected by Amendment IV of the Constitution that states “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated...”

Article VI clause 2 of the Constitution of the United States of America provides: “This Constitution...shall be the supreme law of the land; and the judges in every state shall be bound thereby...”

The Appellate division of the Superior Court in the State of California in its opinion disagreed stating that “...it has been long held that proper use of the summary judgment procedure in a civil case does not violate the constitutional right to a jury trial.” citing a case law in California, *Scheiding v. Dinwiddie Constr. Co.*, (1999) 69 Cal.App.4th 64, 70. See Appendix A, Page 10.

Petitioner contends that the judgment rendered by the lower state courts was repugnant to the United States Constitution and resulted in application of unequal justice, fundamental unfairness and miscarriage of justice.

The attorneys, WOLF, have taken the required Oath to support the Constitution of the United States and the Constitution of the State of California to practice law in California pursuant to California Business and Professions Code section 6067.

The trial court judge, Honorable Michael P. Vicencia, has taken the required Oath to support and defend the Constitution of the United States of America and the Constitution of the State of California to serve as a judge in the state of California.

“Judges have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would-be treason to the Constitution” *Cohen v. Virginia*, (1821), 6 Wheat. 264

“All laws, rules and practices which are repugnant to the Constitution are null and void” *Marbury v. Madison*, 5th US (2 Cranch) 137, 180

“Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them” *Miranda v. Arizona*, 384 U.S. 436, 491

It is an incontestable fact that WOLF and the trial court judge knowingly committed fraud breaching their Oath by agreeing to proceed at common law and to preserve the Petitioner’s right of trial by jury only to breach the agreement without Petitioner’s consent.

The trial court's actions essentially deprived Petitioner of her constitutional right to due process of law, and right to a trial by jury, as there were factual questions of a material nature, supported by ample presented evidence, to be resolved

Therefore, Imuta moves this court to grant this petition, or in the alternative instruct the trial court to reverse its order.

REASONS FOR GRANTING THE PETITION

This Case represents a grave violation of unalienable right of one of the people of United States of America protected by the 4th Amendment, 5th Amendment, and 7th Amendment of the Constitution of the United States of America, seriously damaging and violating Imuta and coincidentally effects every citizen of the United States of America and courts of law.

The statistic shows, more than 180,000 people in the state of California, and more than 650,000 people in the United States of America are homeless, and the number is sadly increasing. In the process of losing their homes, the unalienable rights of people protected by the Constitution are being violated by the inappropriate application of laws, rules and practices that are repugnant to the Constitution as this Case represents.

This case is of utmost importance and significant for all people of the United States of America and courts of law, which calls for the supervisory power of this Court to resolve, which has not, but should be, settled by this Court.

Therefore, Imuta moves this court to grant this petition.

CONCLUSION

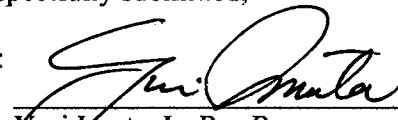
This petition is set forth in the interest of justice in protecting Imuta's unalienable right to trial by jury, common law courts, due process and to be secure in her property.

For the foregoing reasons, Petitioner requests that this Court grant the petition for certiorari or in the alternative instruct the trial court to reverse its order.

DATED: 5/22/2024

Respectfully submitted,

By:


Yuri Imuta, In Pro Per