

IN THE SUPREME COURT OF THE UNITED STATES

Case No. 17-8261

JOSE LATORRE,

Petitioner

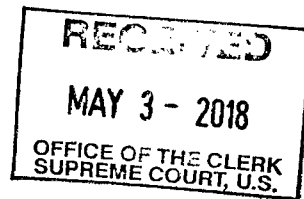
vs.

BRENT ADRIAN and REXX FISCHER,

Respondents,

**RESPONDENT BRENT ADRIAN'S RESPONSE
TO PETITION FOR WRIT OF CERTIORARI**

Brent Adrian
5600 S.W. 48th Street
Davie, Florida 33314



Respondent, BRENT ADRIAN (“Respondent Adrian”), opposes Petitioner, JOSE LATORRE’s (“Petitioner LaTorre”) Petition for Writ of Certiorari, and states as follows

I. STATEMENT OF THE CASE AND FACTS

1. Factual Background:

Prior to October 19, 2010, William Seefeldt (“Seefeldt”) was the owner and occupant of real property located in Florida City, Florida (the “Property”). Because of Seefeldt’s failure to pay the real estate taxes levied against the Property for years 2006, 2007, and 2008 a tax sale was scheduled on October 20, 2010. Before the scheduled sale, Respondent Brent Adrian and Respondent REXX FISCHER (“Respondent Fisher”) offered to purchase the Property. Respondent Adrian told Seefeldt that he would buy the Property by paying off the delinquent real estate taxes, and in exchange Seefeldt could reside at the Property as long as he wanted. The only condition was that Seefeldt must pay Respondent Adrian the amount needed to pay the future real estate taxes levied against the Property. An Agreement (Appendix D) for the sale of the Property was entered into between Seefeldt, Respondent Adrian, and Respondent Fisher. The Agreement contained the provision:

Seller further agrees that as long as he is residing on site, he will pay property taxes for the years 2010 and 2011 in installments of \$188.58 per month beginning on November 15th, 2010, for a period of 12 successive months. Payment is to be by check or money order payable to buyer at 5600 Southwest

48th Street, Davie, Florida, 33314. Failure to pay taxes due shall be considered a breach of agreement.

The Agreement also contained a hand-written entry on the top of page 2 of the Agreement:

“Jose LaTorre may substitute for Mr. Seefeldt in case Mr. Seefeldt dies”.

Petitioner LaTorre is a friend of Seefeldt that resided with him at the Property. Petitioner LaTorre was not a party to the Agreement (Appendix D), and no judgment was entered against him in the Lower Court (Appendix C). Petitioner LaTorre’s claim that he held a life estate in the Property is predicated upon the foregoing statement.

2. Procedural background:

After Seefeldt defaulted under the Agreement, by failing to pay requisite monthly payments due pursuant to the Agreement, Respondent Adrian and Respondent Fischer filed a lawsuit in the Circuit Court of the 11th Judicial Circuit in and for Miami-Dade County, Florida, seeking the eviction of Seefeldt from the Property.

On November 7 and 8, 2016 a non-jury trial was conducted before Judge Gonzalez-Meyer. On November 10, 2016, Judge Gonzalez-Meyer entered a Final Judgment after Trial for Plaintiff. On November 28, 2016, Judge Gonzalez-Meyer entered the Amended Final Judgment. (Appendix C). The Amended Final Judgment found, inter-alia:

The Court therefore finds that the agreement was a sale and that Mr. Adrian is the rightful owner. The Court further finds that Mr. Seefeldt has failed to make monthly rental payments for several years and that the eviction action must proceed as no monies have been deposited into the Court Registry.

Thereafter, Seefeldt filed a Notice of Appeal to appeal the Amended Judgment in the Third District Court of Appeal in and for the State of Florida (the “Appeal”). In the Initial Brief filed by Seefeldt, Petitioner LaTorre, sought a Petition for Prohibition and/or a Constitutional All Writs Mandate to restore his purported rights of possession to the Property and to restore the status quo with respect to him. Petitioner LaTorre asserted that his purported life estate in the Property was taken without affording him due process. In the Appeal, Seefeldt asserted that the judgment of the Lower Court has effectively extinguished Petitioner LaTorre’s rights to possession, enjoyment, and benefit of his purported life estate interest in the Property without affording Petitioner LaTorre due process under the law.

In Respondent Adrian’s Answer Brief he asserted, inter-alia, that even if Petitioner LaTorre could claim that he was a contingent third-party beneficiary under the Agreement because he could reside at the Property after Seefeldt died, his rights under the Agreement were no greater than Seefeldt’s rights under the Agreement, the contracting party through whom Petitioner LaTorre claimed an interest. Not only was Petitioner LaTorre’s purported life estate contingent upon him outliving Seefeldt, it was also contingent upon Seefeldt not breaching the Agreement, which would extinguish both Seefeldt’s and Petitioner LaTorre’s rights or interests, if any,

under the Agreement. Petitioner LaTorre lost any right he may have had to succeed to Seefeldt's interests under the Agreement when Seefeldt breached the Agreement by ceasing to remit monthly payments.

On September 18, 2017, oral argument was conducted in the Appeal. Seefeldt and Petitioner LaTorre's attorney argued, inter-alia, that Petitioner LaTorre was deprived of due process. On October 4, 2017, the Appellate Court issued a Per Curiam Affirmation, without opinion, affirming the Lower Court's Amended Judgment (Appendix B).

On October 12, 2017, Seefeldt filed a Motion for Certification and/or for Written Opinion, pursuant to Rule 9.330(a) of the Florida Rules of Appellate Procedure. On November 1, 2017 the Appellate Court denied Seefeldt's Motion for Certification.

On November 29, 2017, Petitioner LaTorre filed with the Florida Supreme Court, a Request for a Writ of Prohibition and for all Writs. In his Petition, Petitioner LaTorre again argued, inter-alia, that the final judgment adversely affected his purported contingent life estate without affording him due process under the law. On December 20, 2017, the Florida Supreme Court dismissed Petitioner LaTorre's case holding that the Florida Supreme Court's jurisdiction to issue extraordinary writs may not be used to seek review of an unelaborated decision from a district court of appeal that is issued without opinion or explanation or that merely cites to

an authority that is not a case pending review in, or reversed or quashed by, the Florida Supreme Court.

II. ARGUMENT

Petitioner LaTorre's Petition for Writ of Certiorari does not assert that:

(a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power;

(b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals; or

(c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

All of Petitioner LaTorre's purported lack of due process claims were considered in the Appeal and rejected by the Florida Supreme Court. Through the Petition for Writ of Certiorari, Petitioner LaTorre is requesting this Court to

adjudicate his rights as a holder of an alleged contingent life estate in the Property under the guise that he was deprived of due process. Petitioner Latorre's purported contingent life estate to reside at the Property after Seefeldt died was extinguished when Seefeldt breached the Agreement and was evicted from the Property. There are no actual or valid constitutional issues or federal questions raised by Petitioner in his Petition for Writ of Certiorari. Accordingly, there is no compelling reason for granting Petitioner LaTorre's Petition for Writ of Certiorari.

III. CONCLUSION

For the reasons set forth in this Response, Respondent Brent Adrian requests the entry of an Order denying Petitioner LaTorre's request for the issuance of a Writ of Certiorari.

By: /S/ Brent Adrian
Brent Adrian