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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

SCOTT MARTIN et al.,

Petitioners,

v.

THE SUPERIOR COURT OF
SAN BERNARDINO COUNTY,

Respondent;

ACJ TRUE GRIT, LLC et al.,

Real Parties in Interest.

E061405

(Super.Ct.No. CIVBS1200309)

OPINION

ORIGINAL PROCEEDINGS; petition for writ of mandate. John M. Pacheco,
Judge. Petition is granted.

Single Oak Law Offices and Chris A. Johnson for Petitioners.

No appearance for Respondent.

Law Offices of Timothy L. McCandless and Timothy Lee McCandless for Real
Party in Interest.

In this matter we have reviewed the petition and the opposition filed by real party in interest. We have determined that resolution of the matter involves the application of settled principles of law, and that issuance of a peremptory writ in the first instance is therefore appropriate. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 178.)

We do not determine the merits of any claim which real parties may make with respect to the “probable validity” of petitioners’ claims. (See Code Civ. Proc., § 405.32.) The motion was framed in terms of “no real property claim” under Code of Civil Procedure section 405.31. As such, the merits of petitioners’ case were not properly in issue.

It cannot be disputed that a claim for specific performance of a contract to sell real property is a “real property claim” within the meaning of the lis pendens statutes. (*BGJ Associates v. Superior Court* (1999) 75 Cal.App.4th 952.) Petitioners therefore do state such a claim and the court erred in expunging the notice of lis pendens under the authority of Code of Civil Procedure section 405.31.

DISPOSITION

Accordingly, the petition for writ of mandate is granted. Let a peremptory writ of mandate issue, directing the Superior Court of San Bernardino County to vacate its order expunging the notice of lis pendens, and to enter a new order denying said motion.

Petitioners are directed to prepare and have the peremptory writ of mandate issued, copies served, and the original filed with the clerk of this court, together with proof of service on all parties.

Upon the finality of this order, the order staying expungement shall be dissolved as moot. Petitioners to recover their costs.

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KING
Acting P. J.

We concur:

MILLER
J.

CODRINGTON
J.