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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

LUCKY 777, INC. et al.,

Petitioners,

v.

THE SUPERIOR COURT OF  
RIVERSIDE COUNTY,

Respondent;

JPMCC 2006-LDPY TRINITY PLACE  
LLC,

Real Party in Interest.

E061679

(Super.Ct.No. RIC1403051)

OPINION

ORIGINAL PROCEEDINGS; petition for writ of mandate. Gloria C. Trask,  
Judge. Petition granted.

Broedlow Lewis LLP, Jeffrey Lewis and Kelly Broedlow Dunagan, for  
Petitioners.

No appearance for Respondent.

Aires Law Firm and Timothy Carl Aires 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.)

### DISCUSSION

First, the only cause of action which could conceivably support real party in interest's notice of lis pendens is that alleging a "fraudulent conveyance" of the subject real property. (See *Kirkeby v. Superior Court* (2004) 33 Cal.4th 642.) But petitioners' motion clearly referenced both sections 405.31 and 405.32 of the Code of Civil Procedure, and the latter places the burden on the plaintiff to establish the "probable validity" of any real property claim. Thus, even if the pleading were sufficient to state a cause of action for fraudulent conveyance, real party in interest's failure to factually support the claim is fatal.

Real party in interest did nothing more than speculate that because defendants Grewal and Gill are *allegedly* related, any real property held by Gill must have been held for Grewal's benefit, and any transfer by Gill must have been done to hinder Grewal's creditors. Real party in interest presented no evidence whatsoever to support any of these conjectures.

The 1992 amendments to the lis pendens law, which placed the burden on the plaintiff to establish a viable claim, were designed to curb abuses and prevent plaintiffs from tying up real property as a strategic maneuver. (See *Hunting World, Inc. v. Superior Court* (1994) 22 Cal.App.4th 67.) Accordingly, as real party in interest failed to carry its burden, the notice of lis pendens must be expunged.

DISPOSITION

Let a peremptory writ of mandate issue directing the Superior Court of Riverside County to vacate its order denying petitioners' motion to expunge, and to enter a new order granting 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. Petitioners to recover their costs.

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RICHLI  
J.

We concur:

McKINSTER  
Acting P. J.

KING  
J.