

# UNOFFICIAL COPY



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS Doc# 1905613027 Fee \$72.00  
COUNTY DEPARTMENT, CHANCERY DIVISION

DANA BOND,  
Plaintiff,

v.

KEVIN RADKE,  
Defendant.

No. 2017-CH-05303

Calendar 16 JUDGE DAVID B. ATKINS

Judge David B. Atkins NOV 27 2018

Circuit Court-1879

RHSP FEE:\$9.00 RPRF FEE: \$1.00

EDWARD M. MOODY

COOK COUNTY RECORDER OF DEEDS

DATE: 02/25/2019 11:06 AM PG: 1 OF 5

## TRIAL ORDER

THIS CASE COMING ON FOR TRIAL, the court having heard the testimony of the witnesses and the arguments of counsel, and having considered all the evidence and the briefs submitted, and being fully advised in the premises,

THE COURT HEREBY ORDERS that judgment is entered in favor of both parties in part as follows.

### Background

This is a dispute over the ownership of a condominium unit located at 112 Carriage Way Drive, Unit 110, Burr Ridge, Illinois (the "Condo"). The following basic facts were undisputed at trial: Plaintiff Bond and Defendant Radke, while never married, have a son who was born in 2013. Radke purchased the disputed Condo in 2014 and holds title to the same, but Bond and the parties' son have primarily resided there since, and continued to occupy the same as of this trial. Plaintiff filed this action seeking a declaration that she is the equitable owner of the Condo, and Defendant later filed his Counterclaim seeking possession of the same. The matter was held for trial on November 6 and 7, 2018, and the court now rules.

### Discussion

The only witnesses at trial were the parties themselves, and their testimony was largely consistent on the overall course of relevant events: Radke purchased the Condo in 2014 so that Bond and their son would have a place to live – Bond having sought to move out of her mother's house<sup>1</sup> but being unable to secure financing. The parties were both present at the closing in May 2014, but Radke then returned to New York (where he worked at the time) while Bond moved into the Condo with their son. Radke periodically visited the Condo until early 2016, after which Bond denied him entry, the relationship

<sup>1</sup> The parties had previously lived together in New York before Bond moved back to Illinois.

JA

# UNOFFICIAL COPY

between the two having soured. Bond paid most of the mortgage payments and condominium dues (as well as the costs of certain improvements to the Condo) from 2014 to June 2016, and Radke has made all such payments from then until trial in this matter.

Based on these uncontroverted facts, the court must find Plaintiff has not satisfied her burden of proving equitable ownership of the Condo. It was undisputed that Defendant in fact purchased the Condo<sup>2</sup> and is the only party listed on its title.<sup>3</sup> While the parties disputed the frequency of Radke's visitation,<sup>4</sup> Bond admitted (and even introduced evidence to show) that he did visit on numerous occasions (roughly every 4-6 weeks for a few days at a time), and on some occasions he did so while Bond was not present. The parties further both testified that Radke participated in discussions of some Condo improvements and that although he did not keep a separate key to the Condo, he was regularly given one as a matter of routine every visit prior to 2016. All told, as of the date of the trial, both parties had paid roughly similar amounts toward the mortgage and Condo dues.

Further, Bond failed to show that Radke intended to grant her ownership of the Condo, whether as a gift or otherwise. Plaintiff relied heavily on certain text messages from Radke that the Condo was "for you" and their son, and that "I didn't buy it for me." However, the context of those messages suggest that Radke did not buy the Condo *solely* for himself, but to provide for those he (at the time) considered his family. Radke also testified to this effect, stating that he intended to move back to Illinois to be closer to them once he could find a new job. This intent was itself supported by the evidence that Radke began working in Ohio in 2015 (significantly closer than New York)<sup>5</sup> and currently *does* live and work in Illinois. In sum, the evidence presented did not adequately support Bond's claim of equitable ownership. For the same reasons, the court must find in favor of Radke on his Counterclaim for possession, having shown that he is the legal owner of the Condo and has given notice to Bond that she must vacate the same.

However, Bond did show that she is entitled to an equitable lien in the amount of \$11,527.14 for work done on certain improvements to the Condo,

---

<sup>2</sup> Plaintiff argues for the first time after trial that Radke obtained title through fraud, an argument (1) not raised in any pleading, (2) based on disputes about the validity of the mortgage documents she likely lacks standing to raise, and (3) that was not proven by the the evidence presented in any event.

<sup>3</sup> While Plaintiff asserts that title "deserves little, if any, weight when deciding ownership," the cases it cites to that effect are equivocal at best, indicating only that some aspects of ownership are independent of title. See *in re Ulz*, 388 B.R. 865, 866 (Bankr. N.D. Ill. 2008).

<sup>4</sup> Testimony conflicted on numerous details of the relationship between the parties, and was generally partially credible at best.

<sup>5</sup> Radke also testified that he visited the Condo more frequently after getting the job in Ohio, though Bond disputed the same.

# UNOFFICIAL COPY

including new floors, trim, fixtures, etc. Radke admitted that he was aware of these improvements and in some cases even expressly allowed Bond to make them. He further admitted (and the evidence showed) that the Condo has a fair market value significantly higher today than it did when he bought it in 2014 (\$162,000 vs. \$133,000). Indeed, he testified that in his personal opinion it is worth significantly more than even that, as much as \$190,000. Under these circumstances an equitable lien is appropriate, and in the absence of any direct evidence of how the improvements contributed to the increased value, the court finds the cost spent to be a reasonable measure.

Finally, the court declines to rule on the parties' respective pleas for monetary relief based on mortgage payments, use and occupancy, etc. It was readily apparent from the evidence and testimony that such payments were inextricably related to what the parties considered to be child support payments from Radke; for example, in certain months Radke did not pay any child support, but did pay the mortgage and Condo dues, suggesting he considered all living expenses and child support to be interchangeable. The total amount of child support he owes is the subject of other pending litigation, and the court will leave the matter to that court in the interest of avoiding inconsistent rulings and a probably more expeditious resolution thereof.

WHEREFORE, judgment is hereby entered in favor of the Plaintiff on the Complaint in that the court hereby grants Plaintiff Dana Bond an equitable lien against the Condo described herein in the amount of \$11,527.14. Judgment is entered against the Plaintiff on all other aspects of the Complaint and on Defendant's Counter-Claim in that the court finds Defendant Kevin Radke is the owner of the Condo and is entitled to immediate possession thereof. Defendant's Motion for Use and Occupancy is denied without prejudice. This is a final and appealable order.

ENTERED:  
JUDGE DAVID B. ATKINS

NOV 27 2016  
Circuit Court-1879  
\_\_\_\_\_  
Judge David B. Atkins

The Court.


UNOFFICIAL COPY

I hereby certify that the document to which this certification is affixed is a true copy.

**DOROTHY BROWN** FEB 25 2019

Date: *Dorothy Brown*

**Dorothy Brown**  
Clerk of the Circuit Court  
of Cook County, IL



Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## Office of the Cook County Clerk

### Map Department Legal Description Records

**P.I.N. Number: 1819307007**

The legal description card(s) below is prepared in a format used for official county record-keeping, and can be used by the Cook County Recorder's Office to access their tract books.

If you need assistance interpreting this description, please obtain a copy of our instruction sheet "How to Read a Legal Description Card", available from the counter clerk or at our website [www.cookcountyclerk.com](http://www.cookcountyclerk.com)

Please verify the Property Identification Number or P.I.N. (also known as the "Permanent Real Estate Index Number). If this is not the item you requested, please notify the clerk.

18	19	307	007		82	21071
AREA	SUB-AREA	BLOCK	PARCEL	UNIT	WARRANT	CODE

OFFICE OF THE CLERK OF COOK COUNTY, ILLINOIS

PERMANENT REAL ESTATE INDEX NUMBER AND LEGAL DESCRIPTION

VOLUME

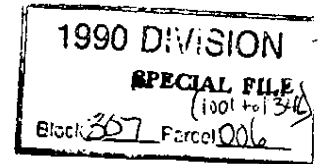
82

AREA SUB-AREA BLOCK PARCEL UNIT

18- 19- 307- 007

TAX CODE

21071



CARRIAGE WAY CARRIAGE WAY OF BURR RIDGE CONDO TOGETHER WITH THAT PRT SW¼ LYG S OF SLY LN OUTLOT B & W OF WLY LN OUTLOT A IN BURR RIDGE PK SUB & N OF N LNS OF BURR RIDGE PK & 1ST ADD TO BURR RIDGE PARK SUBS & E OF ELY LN COUNTY LN RD SW¼ UNIT AS PER DOC 89131398	SEC 19	TWP 38	RANGE 12	LOT 01 (B)	SUB-LOT 01	BLOCK 01
---	-----------	-----------	-------------	------------------	---------------	-------------

PRYOR BOOKS