

**COLORADO RIVER INDIAN TRIBES
APPEALS COURT**

Parker, Arizona

Marcos O' Campo,

Appellant/Defendant

v.

Patricia L. Twyman,

Appellee/Plaintiff

and

Colorado River Indian Tribes,

Intervenor

CASE NO: CV-AP-2022-0002

(Trial Court Case No: CV-CO-2021-0114)

OPINION

Patricia Twyman (“Twyman” or “Appellee”) sued to evict Marcus O’Campo (“O’Campo” or “Appellant”) from trust land assigned to Twyman on the Colorado River Indian Reservation. The trial court ordered eviction and O’Campo appealed. The Colorado River Indian Tribes intervened as a matter of right and filed their Memorandum on questions of law which had previously been filed in the case below. We affirm.

FACTUAL BACKGROUND

This is an action for eviction was initiated by Twyman against O'Campo, a non-tribal member, from a home located on a portion of an exchange assignment granted to Petitioner. The home in question is located on lands held in trust for the Colorado River Indian Tribes ("CRIT" or "the Tribes") within a parcel originally described as Lot J.¹

The Grant of Exchange Assignment (the "Grant") was originally granted to Henry Leivas on March 31, 1950, in exchange for allotted lands he held that he agreed could be turned back to the Tribe. The Grant provides that "Land covered by exchange assignment grants shall carry with it the rights provided by the Land Code which rights are identical to allotted lands with the exception of inheritance." After prior assignees, Henry Leivas and Helen Leivas deceased, the CRIT Tribal Council passed Resolution 83-20, passing the Grant to Twyman.

On February 2, 1971, CRIT and the Colorado River Indian Housing Authority ("CRIHA") entered into a Lease Agreement ("The 1971 Lease Agreement") for a portion of the assigned lands to be used for the Tribe's Turnkey III Homeownership Project². Before including this parcel in the Project, tribal law required CRIT and CRIHA to obtain Henry Leivas' consent. On November 23, 1970, Henry Leivas, as the assignee, agreed to allow J.B. O'Campo (non-tribal member) and Sally O'Campo (CRIT Tribe Member) to put a house on approximately one-half acre of the assignment. The 1971 Lease Agreement between the CRIT and CRIHA was for a term of 25 years, with an automatic renewal for another 25 years. The term of the lease started on February 2, 1971, and expired on February 1, 2021.

On August 27, 1991, CRIHA approved Resolution No. 92-03 to transfer title to J.B. and Sally O'Campo. The Resolution authorized CRIHA to "release, quitclaim, convey and assign to the Homebuyer all its rights, title, and interest in Unit #29 Project AZ 18-04, of the Colorado River Indian Reservation and to all improvements thereon." This conveyance by CRIHA is limited to the "maximum interest in the house and grounds that it can give."

¹ Facts described here are facts provided by the Tribes as Intervenor.

² This era of tribal mutual-help housing programming was known as the "old" mutual-help housing program. Mark K. Ulmer, *The Legal Origin and Nature of Indian Housing Authorities and the HUD Indian Housing Programs*, 13 Am. Indian L. Rev. 109, 112-13 (1987).

In accordance with Resolution No. 92-03, CRIHA executed a “Deed and Assignment of Interest” on September 4, 1991. The Deed and Assignment of Interest indicates that CRIHA hereby “sell, convey, assign, grant, transfer, and set over unto the Assignee all of its rights, interest, powers, privileges, and benefits created by and under that certain Lease entered into by and between the Colorado River Indian Tribe and the Colorado River Indian Housing Authority.” J.B O’Campo and Sally O’Campo are referred to as “assignee” throughout the document.

J.B O’Campo has passed away and Sally O’Campo is no longer living in the home in question. Thereafter O’Campo, the son of J.B. O’Campo and Sally O’Campo presented a letter purportedly signed by Sally O’Campo. He testified the letter was given to Mr. Lafoon at CRIT Realty, asking to sell the house in question. According to O’Campo, no one from Realty responded to Ms. O’Campo’s request.

O’Campo also provided evidence of a letter signed on behalf of Sally O’Campo by JoAnn Swaffer via power of attorney, assigning the house in question to her grandson, Travis B. Sharp, (a tribal member residing in Phoenix, AZ), and O’Campo. The trial court concluded that there is no evidence Ms. O’Campo or Ms. Swaffer attempted to have this assignment formally transferred in accordance with tribal law. The CRIT Attorney General stated in its filing that no evidence was presented showing that the assignment was formally transferred by federal and tribal law.

Twyman presented a letter from Herman Laffoon, Jr., CRIT Realty, indicating she does not have a lease with O’Campo, and “the residential lease of Sally O’Campo expired on February 2021.” After the expiration of the lease term on February 1, 2021, Twyman sent and O’Campo received notice to vacate the premises.

After Twyman delivered the notice for eviction O’Campo refused to vacate the premises. She then commenced an action in the Tribal Court for eviction on the grounds O’Campo is living on the property without a valid lease after the expiration of the 1971 Lease Agreement between CRIT and CRIHA assigned to his parents.

On April 27, 2022, the trial court determined that Twyman satisfied the notice requirements under the CRIT Property Code Article 1, Eviction, Sections 1-302-304 and granted her judgment. On May 24, 2022, O’Campo appealed the trial court’s decision. On August 22, 2022, Colorado River Indian Tribe intervened in the Appeal.

DISCUSSION

The critical issue in this case is whether the trial court erred in finding that O’Campo had no legal interest in the residence claimed by Twyman sufficient to prevent his eviction. We begin by assessing what property rights are possessed by the parties over the land and the improvements on the land. We initially note that the land is technically owned by the federal government in trust for the benefit of the Colorado River Indian Tribes, a type of land ownership pattern unique to Indian country that is usually referred to as “trust land.” As the beneficial owner of the trust land, CRIT possesses considerable property rights in the land. Most relevant to this appeal, CRIT may lease or assign the land to tribal members in accordance with federal law, 25 U.S.C. § 415(a), and tribal law, CRIT Land Code § 7-102.

Twyman possesses an assignment from CRIT under tribal law, memorialized in CRIT Resolution 83-20, adopted in 2020. Twyman was the intended beneficiary of the assignment according to the previous assignment owner, Helen Leivas. Under tribal land code § 7-102(a), the assignment authorizes assignment holders to lease the land to other tribal members without tribal consent. Tribal law incorporates by reference federal regulation 25 C.F.R. § 162.003, which requires that any assignment be limited to the tribal members. Interestingly, Twyman took possession of this assignment subject to a lease possessed by O’Campo’s predecessors in interest, a lease that expired in 2021.

O’Campo was the successor in interest to the lease made in 1970 and 1971 that expired in 2021. In 1968, J.B. and Sally O’Campo entered into a mutual-help housing agreement, called the Turkey III Homebuyers Ownership Agreement, with the Colorado River Indian Housing Authority. In 1970, Henry Leivas consented in writing to allow J.B. O’Campo to use one-half of Mr. Leivas assignment for mutual-help home. Section 2 of the 1971 lease between the O’Campos and the tribe stated that the premises will be used for a Mutual-Help Housing Project. The 1968, 1970, and 1971 documents make clear that the O’Campos possessed a right to possess one-half of the Leivas land assignment from 1971-2021. O’Campo’s right to reside on the Leivas/Twyman land assignment expired long ago.

O’Campo possesses no legal interest in the mutual-help home located on the Twyman land assignment. The 1971 lease authorized J.B. and Sally O’Campo to use the land for 50 years. The O’Campos did so, constructing a mutual-help home

through the tribal housing authority. The O'Campos ultimately fulfilled their obligations to the tribal housing authority in relation to the mutual-help home in 1991. CRIT resolution 92-03 transferred the housing authority's interest in the mutual-help home to the O'Campos. The interest transferred as described in the 1971 lease is no more than the interest possessed by the housing authority; in other words, a legal interest in the mutual-help home and nothing more. That is the only interest O'Campo could hold.

Section 11 of the 1971 lease provides for what happens to the mutual-help home when the lease expires:

If upon expiration or other termination of this lease, further use rights are not granted to the Lessee [the O'Campo family] or its assigns [also the O'Campo family] by the Tribe, said Lessee or its assigns shall, upon demand, surrender to the Tribe complete and peaceable possession of the premises.

Section 6 clarifies that O'Campo possesses a legal interest in the mutual-help home located on the Twyman land assignment only until the lease expires, which was in 2001: "All improvements shall remain the property of the Lessee or its assigns until the expiration of the lease." Read together, these two provisions provide that O'Campo must surrender possession of the mutual-help home to CRIT or, presumably, its assigns, Twyman upon the expiration of the lease.

We are aware of the strangeness of ruling that the ownership of a home affixed to a parcel of land can shift to the owner of that land merely because a lease expired, but that is the character of the mutual-help housing program.³ Because Mr. O'Campo's notice of appeal invoked the vague notion of "Indian Contract Law," we asked at oral argument if there were any tribal customary law or other argument that could assist O'Campo in his position, but we heard of no such law. Even if we had, we would be hard-pressed to undo the plain meaning of the various documents executed by the parties over the years to O'Campo's benefit.

³ Many other tribal citizens have lost their mutual-help homes to eviction for numerous reasons, including for example, engaging in activities that create a nuisance in the community, *Townsend v. Port Gamble Housing Authority*, 6 NICS App. 179 (Port Gamble S'Klallam Tribal Ct. App. 2004), or drug activities, *Hoopa Valley Housing Authority v. Hunsucker*, 12 NICS App. 26 (Hoopa Valley Tribal Ct. App. 2014), and, like in this case, expiration of the underlying lease, *Teller v. Oneida Housing Authority*, 2002 WL 34527414 (Oneida [Wis.] Ct. App. 2002).

Finding no error in the trial court's decision, we AFFIRM the judgment and remand the case back to the trial judge to issue whatever orders are necessary to carry out O'Campo's eviction from the land in question.

Dated: May 12, 2023



Matthew L.M. Fletcher
Appellate Justice

Concur:
Edwards, Justice
Urbina, Justice