



## **Counsel's Corner**

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It is rare that The Supreme Court reviews a real estate case. But in December 2009 the Texas Supreme Court ruled on the Myrad Properties vs. LaSalle Bank case. The case was about a timely subject – Texas foreclosure.

Myrad financed two apartment communities in Killeen with LaSalle Bank, NA's predecessor. Myrad signed a \$1 million note and a deed of trust. The deed of trust was recorded in Bell County. The deed of trust contained separate property descriptions for both the Casa Grande Apartments and La Casa Apartments.

Myrad defaulted. LaSalle Bank posted a notice of foreclosure on only the Casa Grande property. At the foreclosure auction in Bell County, the substitute trustee read only the property description for Casa Grande. LaSalle was the only bidder, offering almost \$1 million.

LaSalle received and recorded a substitute trustee's deed for the Casa Grande property.

Two days later Myrad sued LaSalle, to keep it from filing a correction deed covering the La Casa property. When LaSalle filed it anyway, Myrad asserted that LaSalle owned only the Casa Grande property, while Myrad retained ownership of La Casa, free of LaSalle's deed of trust lien.

Both the trial court and court of appeals held that LaSalle's correction deed was effective to transfer ownership of both Casa Grande and La Casa to LaSalle.

The Texas Supreme Court reviewed the history of correction deeds and determined that such deeds can be used to correct minor defects and imperfections. However, correction deeds cannot be used to convey additional, separate properties. The correction deed filed by LaSalle was void.

### **Bottom line:**

1. Foreclosures are risky business.
2. Purchasers at foreclosure auctions sometimes make mistakes. So do lenders. Trustees too.
3. Be wary of correction deeds.

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