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ANNEXATION - ILLINOIS

United City of Yorkville v. Fidelity and Deposit Company of Maryland

Appellate Court of Illinois, Second District - March 20, 2019 - N.E.3d - 2019 IL App (2d) 180230 - 2019 WL 1275325

City filed separate suits against purchasers of lots in subdivision and against surety to secure completion of public improvements in the subdivision.

Surety filed third-party complaint against purchasers. The Circuit Court dismissed the complaints and the third-party complaint and later denied motions to reconsider filed by city and surety. City and surety filed separate appeals.

The Appellate Court held that:

- Subdivision annexation agreement's exception to successor liability applied alike to purchases of single and multiple lots, whether empty or improved;
- Purchasers of lots were not subject to agreement's exception to successor liability;
- Appellate Court's comments in prior case as to whether a purchaser of lots in subdivision was bound by the duties of subdivision annexation agreement were obiter dicta and had at most persuasive value;
- City and surety's allegations sufficiently alleged that purchasers failed to fulfill their obligations under agreement as successors of developer and subdivision owner;
- City and surety sufficiently alleged that duty of owner and developer of subdivision to complete public improvements ran with the land;
- Surety's allegations sufficiently alleged that surety relationship arose between surety and purchaser, as required to state claim for reimbursement based on purchaser's failure to complete improvements; and
- Fact that surety did not sign agreement did not bar surety from having standing to seek reimbursement.

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