

Bond Case Briefs

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DEVELOPMENT - INDIANA

Munster Steel Co., Inc. v. CPV Partners, LLC

Court of Appeals of Indiana - March 28, 2022 - N.E.3d - 2022 WL 893777

Property seller brought action against property buyers, asserting that buyers' development agreement with town, municipal development commission, and municipal redevelopment commission triggered sale contract's subsequent-sale provision, which required buyers to pay a fee to seller if they resold the property within two years following the closing of the sale contract.

The Superior Court denied seller's motion for summary judgment and granted buyers' motion for summary judgment, determining that the development agreement constituted an equitable mortgage, not a sale. Seller appealed.

The Court of Appeals held that agreement was executed to secure a subsisting debt, and thus agreement constituted an equitable mortgage, not a sale for which property seller could collect fee under subsequent-sale provision.

Development agreement between property buyer and town was executed to secure a subsisting debt, and thus the agreement constituted an equitable mortgage, not a sale for which property seller could collect a fee from buyer under subsequent-sale provision of contract in which seller sold the property to buyer; transfer of property to town under the agreement was intended as security for the performance of buyer's obligations to complete the first segment of development project and to secure funding for second segment of the project, and agreement called for reconveyance of town's right, title, and interest in the property simultaneously with buyer's deposit of the funds for the second segment as satisfaction of a debt.