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Holt v. Brock

Court of Appeal, Third District, California - November 21, 2022 - Cal.Rptr.3d - 2022 WL 17087787

Part owner of real property that was subject to partition action brought action against real estate broker that was appointed by court in partition action to determine listing price and sell property, alleging that broker violated fiduciary duties and committed other torts in the performance of his court-appointed role.

The Superior Court granted summary judgment in favor of broker, concluding that he was protected under quasi-judicial immunity. Part owner appealed.

The Court of Appeal held that:

- Trial court acted within its discretion in granting summary judgment despite broker's procedural violations of rule governing summary judgment motions, and
- As matter of first impression, broker was entitled to quasi-judicial immunity.

Trial court acted within its discretion in granting summary judgment despite real estate broker's procedural violations of rule governing summary judgment motions by failing to identify quasi-judicial immunity as affirmative defense in notice of motion and separate statement of undisputed material facts, in action by part owner of real property that was subject to partition action in which broker had been appointed to determine listing price and sell property alleging broker violated fiduciary duties and committed other torts in his court-appointed role; owner did not raise procedural issue before the trial court, owner argued against affirmative defense on its merits, trial court ruled on the defense, and owner did not show how procedural defect impaired his ability to oppose the defense.

Real estate broker, who was appointed by court in partition action to determine listing price and sell real property, was entitled to quasi-judicial immunity in subsequent action by part owner of property alleging broker violated fiduciary duties and committed other torts in court-appointed role; broker was appointed to exercise discretionary judgment in serving function integral to partition action and as arm of the court, as the court set broker's commission rate, broker was authorized to adjust listing terms upon court order and without parties' stipulation, broker was required to report marketing activities to court and parties on monthly basis, and final approval of any sale negotiated by broker rested with the court, and public policy reasons also justified extending immunity to broker.

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