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First American Bank v. Poplar Creek, LLC

Appellate Court of Illinois, First District, Sixth Division - June 21, 2024 - N.E.3d - 2024 IL App (1st) 230551 - 2024 WL 3076910 - 114 UCC Rep.Serv.2d 299

After mortgage lender reached settlement with one of mortgagor's guarantors, remaining guarantors filed petition for order releasing them from judgment, contending that judgment against mortgagor was satisfied when mortgagor assigned to lender a security interest in mortgagor's tax increment financing (TIF) note.

The Circuit Court denied the petition. Guarantors appealed.

The Appellate Court held that:

- Language of pledge and security agreement memorializing assignment of security interest in note exempted lender from having to sell note;
- Article 9 of Uniform Commercial Code (UCC) did not obligate lender to sell note;
- Lender's decision to retain note and apply interest payments to debt was commercially reasonable under Article 9;
- Lender's retention of note did not create rebuttable presumption that its value was equal to lender's judgment;
- Principles of equity did not require treating lender's retention of note as resulting in satisfaction of judgment; and
- Merger doctrine did not preclude trial court's reliance on language of guaranties to determine whether lender had discretion in deciding how to allocate payments.

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