

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2010 CA 0248

FIRST NATIONAL BANK USA

VERSUS

**VANACOR INVESTMENTS, L.L.C.,
RODDY A. VANACOR AND LOT X-1, L.L.C.**

Judgment rendered: SEP 10 2010

**On Appeal from the 17th Judicial District Court
Parish of Lafourche, State of Louisiana
Civil Number: 107896; Division: "A"
The Honorable John E. LeBlanc, Judge Presiding**

**Mark C. Landry
Metairie, Louisiana**

**Counsel for Plaintiff/Appellee
First National Bank USA**

**J. Christopher Erny
Houma, Louisiana**

**Counsel for Defendants/Appellants
Vanacor Investments, L.L.C.
Roddy A. Vanacor, and Lot X-1, L.L.C.**

BEFORE: KUHN, PETTIGREW, JJ., AND KLINE, J., *pro tempore*¹

KUHN, J CONCURS

¹ Judge William F. Kline, Jr., retired, is serving as judge *pro tempore* by special appointment of the Louisiana Supreme Court.

KLINE, J.

Vanacor Investments L.L.C., Roddy A. Vanacor, and Lot X-1, L.L.C. appeal a summary judgment and the overruling of an exception of prescription rendered against them and in favor of First National Bank USA (FNB). The judgment at issue revoked the transfer of immovable property from Vanacor Investments to Mr. Vanacor and then to Lot X-1, L.L.C. After *de novo* review, we affirm the judgment rendered by the trial court.

FNB filed this action against the appellants in November 2007 seeking a declaration of simulation and revocation of certain transfers by the three appellants in February 2006. The trial court concisely set forth the pertinent facts of this matter in its reasons for judgment. The trial court rendered judgment accordingly, and the appellants appealed, raising five assignments of error.

The trial court's thorough and insightful reasons for judgment adequately explain the opinion and the decision of this court. In response to the issue that the trial court erred in applying the La. C.C. art. 2480 presumption of simulation,² we agree with the trial court that the facts surrounding "corporeal possession" did not change when title purportedly transferred between the appellants. Thus, no genuine issue of material fact exists that would preclude the grant of FNB's motion for summary judgment.

Beyond these observations, no jurisprudential purpose would be served by our further comment. Accordingly, we issue this summary opinion pursuant to URCA Rule 2-16.2. Costs of this appeal are assessed to Vanacor Investments L.L.C., Roddy A. Vanacor, and Lot X-1, L.L.C.

AFFIRMED

² Louisiana Civil Code Article 2480 provides as follows regarding the presumption of simulation:

When the thing sold remains in the corporeal possession of the seller the sale is presumed to be a simulation, and, where the interest of heirs and creditors of the seller is concerned, the parties must show that their contract is not a simulation.