Ohio Supreme Court Provides Some Clarity on the Specificity Required to Reserve Interests Under the Marketable Title Act[1]

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On March 16, 2021, the Supreme Court of Ohio issued its opinion in *Erickson et al. v. Morrison et al.*, Slip Opinion No. 2021-Ohio-746, clarifying the decision in *Blackstone v. Moore*, 2018-Ohio-4959, and holding that a recitation of a preexisting interest in a recorded title transaction is not a general reference that is insufficient to preserve the interest under the Marketable Title Act ("MTA") simply because it does not name the owner.

In February 1926, James T. and Rose L. Logan conveyed the surface of the property at issue, "[e]xcepting and reserving therefrom all coal, gas, and oil with the right of said first parties, their heirs and assigns, at any time to drill and operate for oil and gas and to mine all coal." In 1941, James T. Logan, then a widower, transferred the mineral rights to C. L. Ogle through the execution of a deed that specifically referred to the 1926 transaction. Between 1925 and 1975, the surface rights to the land were transferred with each instrument reciting the same exception language from the 1926 deed.

In 2017, the heirs of C.L. Ogle, the Ericksons, filed a quiet title action in Guernsey County Common Pleas Court asserting that they owned the mineral rights to the land by virtue of said reservations. The surface owners, the Morrisons, counterclaimed for a declaration that the reservation of the mineral rights had been extinguished under the MTA.

Ultimately, the case went to the Supreme Court of Ohio to determine "whether a reference to a reservation of mineral rights in a surface landowner's root of title and in subsequently recorded title transactions is a 'general reference' that is insufficient to preserve the reservation pursuant to R.C. 5301.49(A) if it does not name the owner of the reserved rights."

The Court answered that question negatively, and held that the reservation was specific because "the Morrisons' root of title and subsequent conveyances are made subject to a specific, identifiable reservation of mineral rights recited throughout their chain of title using the same language as the recorded title transaction that created it." Reviewing the three-part test created by R.C. 5301.49(A) and expounded upon in *Blackstone*, the Court clarified that *Blackstone* "did not hold that a reference is *required* to identify both the type of interest and by whom it is reserved to preserve the interest."

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