

73808-9

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No. 73808-9

COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION ONE

PERFORMANCE CONSTRUCTION, LLC,
Appellant/Cross-Respondent

v.

COLLETTE GLENN, COBALT MORTGAGE INC., and
MORTGAGE ELECTRONIC REGISTRATION SYSTEM, INC.,

and

DAVID KEENE, Respondent/Cross-Appellant

On Appeal from Snohomish County Superior Court
Case No. 15-2-01905-6
Hon. Joseph Wilson

**BRIEF OF RESPONDENT/
CROSS APPELLANT, DAVID KEENE**

STEPHEN M. HANSEN
WSBA #15642
Law Office of Stephen M.
Hansen, P.S.
1821 Dock Street, Suite 103
Tacoma, WA 98402
Telephone:(253) 302-5955
Facsimile:(253) 301-1147

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The trial Court voided the Order and the Sheriff's Deed, held Glenn to be bona fide purchaser and quieted title in her favor. CP 49-51. Performance now appeals, and D&J asserts its Cross-Appeal.

II. ISSUES PERTAINING TO ASSIGNMENT OF ERROR

1. Did the Superior Court err in determining that Performance Construction failed to make a qualifying offer under RCW 6.23.120 because the offer was made to Glenn and not the purchaser at the Sheriff's Sale?
2. Did the Superior Court err when it determined that Glenn had neither constructive nor actual notice of an upset offeror's rights under RCW 6.23.120 where the Foreclosure Suit, Case No. 13-2-05481-5, ended with a Court Order to Issue the Sheriff's Deed?
3. Did the Superior Court err in granting partial summary judgment, finding the Sheriff's Deed to D&J Shires, LLC and the Order for issuance entered in Case No. 13-2-05481-5 on March 4, 2014, were void as opposed to merely erroneous?

III. STATEMENT OF THE CASE

This appeal arises from two separate causes of action, both from Snohomish County Superior Court. The first is Cause No. 13-2-05481-5, *Brookwood Place Condominium Association v. Slighter Property II, LLC, et al.*, which involved a Condominium Association's lien foreclosure; and the second, now on appeal before this Court, is Cause No. 15-2-01905-6, *Performance Construction, LLC v. Colette Glenn et. al.*, an action to quiet title for the same property sold in the Sheriff's Sale in *Brookwood*.

A. *Brookwood Place Condominium Association v. Slighter Property II, LLC*

In *Brookwood*, the Complaint sought a judgment and foreclosure for unpaid monthly condominium assessments, fees, interest, and attorneys' fees owed by defendant Slighter II, LLC. The unpaid assessments were secured by the Property legally described as:

UNIT 104, BUILDING T, BROOKWOOD PLACE
CONDOMINIUM, ACCORDING TO THE DECLARATION
THEREOF RECORDED UNDER SNOHOMISH COUNTY REC.
NO. 200606210170, AND ANY AMENDMENTS THERETO,
LOCATED ON SURVEY MAPS AND PLANS RECORDED
UNDER REC. NO. 200606215001, AND ANY AMENDMENTS
THERETO, RECORDS OF SNOHOMISH COUNTY,
WASHINGTON.

CP 228. The Complaint sought to foreclose the interest of the Slighter LLC and against the secured lenders, Nationstar and Greenpoint.

On July 31, 2013, a Default Order was entered against Defendants Nationstar and Greenpoint, CP 337, 341, and on October 9, 2013, Brookwood obtained a Judgment and Foreclosure Decree against all named Defendants for Plaintiff's assessments, interest and attorney's fees.

CP 235. The Summary Judgment Order declared Brookwood's lien as prior and superior to any and all right, title, interest, lien or restate of the defendants. CP 237.

On January 3, 2014, the Sheriff sold the property at public auction for \$36,000.00 to D&J Shires, LLC, whose members are David Keene,

because both of their lien rights were not acquired “subsequent in time” to that of the condominium’s declaration and lien for assessments. CP 159.⁴

Accordingly, the Commissioner entered an Order and the Court found “there are no qualified redemptioners for the above-described property as defined in RCW 6.23.010” and further directed the Sheriff to issue a Sheriff’s Deed for the Property “free and clear of any rights of redemption of any and all parties.” CP 242. On April 14, 2014, the Sheriff issued the Sheriff’s Deed to D&J. CP 60, 242.

D&J thereafter listed the Property for sale. CP 101. On May 3, 2014, Glenn purchased the Property on the open market for \$175,000. *Id.* On May 6, 2014, D&J conveyed by Statutory Warranty Deed the subject property to Glenn. *Id.* The Statutory Warranty Deed indicated that the property was sold subject only to “covenants, conditions, restrictions, and easements” by Statutory Warranty Deed, Snohomish County Rec. No. 201405060457. CP 218.

Nearly a year after the Sheriff’s Sale, on January 3, 2015, a Saturday, Thomas Sullivan delivered to Glenn an upset offer to purchase the Property under RCW 6.23.120 for \$92,500.00. CP 589. Notably, the

⁴ Keene argued that Nationstar and Greenpoint are not qualified “redemptioners” within the meaning of RCW 6.23.010” and further that the statutory amendment of RCW 6.23.010 did not apply retroactively. At the time Keene purchased the property, the statute in place, and the Appellate cases interpreting them, would have led to the conclusion that there were no qualified redemptioners. See, CP135, Ex. “D”

record on appeal does not establish whether Mr. Sullivan tendered any amount to Ms. Glenn. In addition, Mr. Sullivan never placed an advertisement on the MLS prior to making his pocket listed offer.

B. *Performance Construction, LLC v. Colette Glenn et. al.*

Glenn, however, did not respond to Performance's offer. Days later, Performance filed a lawsuit in Snohomish County Superior Court (Cause No. 15-2-0195-6) seeking to void the Sheriff's Deed, naming David Keene as a Defendant and seeking to force Glenn to sell the Property to Performance. Glenn then filed a third-party claim against D&J for breach of statutory warranties and indemnity.

The parties brought cross-motions for summary judgment. CP 192, 320, 489, 523. On June 30, 2015, the trial Court entered an Order granting Performance Construction's motion in part, but denying most of it, and granting defendants' motions. The order of summary judgment:

- 1) vacated the ex parte order for issuance of the premature Sheriff's Deed;
- 2) voided the Sheriff's Deed;
- 3) declared that Performance Construction did not make a qualifying offer under RCW 6.23.120;
- 4) declared that Colette Glenn was a bona fide purchaser, and
- 5) declared the deed from Slighter to Performance Construction, LLC to be void because of an error in the legal description.

CP. 47.

IV. ARGUMENT

Respondent David Keene's Opposition Brief

A. Standard of Review

An appellate court reviews a summary judgment order de novo. *Camicia v. Howard S. Wright Constr. Co.*, 179 Wn.2d 684, 693, 317 P.3d 987 (2014). Summary judgment is appropriate if the evidence in the record demonstrates that there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. CR 56(c).

Keene contends that the trial court did not err in granting summary judgment on behalf of Glenn when it held Performance had not made a qualifying offer and that Glenn was a bona fide purchaser for value. Mr. Keene, however, also contends summary judgment should have been granted in his favor, and the Court erred in declaring the Order and Sheriff's Deed void. This is the subject of Mr. Keene's cross-appeal.

B. The Trial Court did not err when it found Performance had not made a qualifying offer because Performance's offer should have been made to D&J Shires, LLC, the purchaser at Sheriff's sale

The trial Court did not err when it declared that "Performance Construction failed to make a qualifying offer under RCW 6.23.120." CP 49.

During the one-year redemption period, “any licensed real estate broker within the county in which the property is located may non-exclusively list the property for sale whether or not there is a listing contract.” RCW 6.23.120(1).

If the judgment debtor does not redeem the property and a sheriff's deed is issued, then the property owner “shall accept the highest current qualifying offer upon tender of full cash payment within two banking days after notice of the pending acceptance is received by the offeror.” RCW 6.23.120(1). *P.H.T.S., LLC v. Vantage Capital, LLC*, 186 Wn. App. 281, 287-288, 345 P.3d 20 (2015).

During the redemption period, who is the “property owner”? As Appellant stated in its brief, “RCW 6.23.120 does not expressly state to whom the upset offer must be made.” App. Brief p. 10. The Court’s decision in *P.H.T.S., LLC* is, however, insightful, because Division II interpreted the statute to mean that the offer ought to be made to the *purchaser* at the sheriff’s sale, or their successor in interest. *Id.* at 283. Here, Performance cannot establish that Mr. Sullivan made a qualifying offer to the *purchaser*.

Performance does not disagree with the analysis above. But having only established that Mr. Sullivan made the offer to Glenn and *not the*

purchaser at the Sheriff's Sale i.e. D&J, Performance's offer failed as a matter of law. CP 17.

Instead of acknowledging that Mr. Sullivan should have made the offer to D&J, Performance simply makes up facts for the first time in this appeal to support its novel legal theories. In order to prove Mr. Sullivan made a qualifying offer to the proper "purchaser" i.e. to Glenn, Performance states in its Brief that "D&J Shires' quit claim deed to Collette Glenn conveyed all of D&J's then existing legal and equitable rights, which were those of the sheriff's sale purchaser", (App. Br. 13); and therefore, Glenn is a successor in interest i.e. the property owner. This statement is not only unsupported by the record, but it has been made for the first time on appeal, and the statement is a falsehood.

Performance next argues that (1) that the warranty deed D&J conveyed to Glenn was void; (2) D&J did not have fee title, but merely an inchoate interest obtained as a purchaser at the sheriff's sale; (3) D&J must have conveyed interest as a purchaser to Glenn through a phantom quit claim deed (an issue raised for the first time on appeal); and (4) therefore, she is a "successor in interest" and the proper recipient of Mr. Sullivan's offer.

Performance fails to cite any law in support of its argument that a statutory warranty deed that is purportedly void, somehow reverts into a

of quiet possession); and (5) that the grantor will defend the grantee's title (warranty to defend).

Mastro v. Kumakichi Core, 90 Wn.App. 157, 163, 951 P.2d 817 (1998)

quoting 17 WILLIAM B. STOEBUCK, *WASHINGTON PRACTICE:*

REAL ESTATE: PROPERTY LAW § 7.2, at 447 (1995). The statute does

not convert a void deed into some other type of conveyance. Rather the

statute sets forth the warranties of title and remedies for a breach of the

warranties.

Instead of explaining the legal mechanism in which a void conveyance of fee title somehow converts to a conveyance of what the grantor did have-Performance simply makes up facts. Performance states, for the first time on appeal, that D&J quitclaimed its interest to Glenn. There is no factual support in the record for this statement. Performance did not present such facts at summary judgment. It did not argue this in support of summary judgment. D&J, nor Keene for that matter, quitclaimed “all the then existing legal and equitable rights of the grantor...”RCW 64.04.050. Indeed, no recorded document is cited to prove the existence of a quit claim deed. Yet, Performance insists, as it must in order to prevail on whether it made a qualifying offer, that “D&J Shires’ Quit Claim Deed to Glenn conveyed all of D&J Shire’s existing

legal and equitable rights.” App. Brief, 13. Performance has completely made these facts up for the first time on appeal.

Absent a quit claim deed, or some Washington authority that mandates a court to treat a fee simple conveyance, or statutory warranty deed, that is later voided as a quit claim deed, Performance cannot establish that Mr. Sullivan made a qualifying offer to the proper purchaser. Performance cites no authority for its position, and case law to the contrary is well-established.

For example, “where a party conveys property via a statutory warranty deed and the granting clause conveys a definite strip of land, courts ‘must find that the grantor [] intended to convey fee simple [absolute] title unless additional language in the deed [] clearly and expressly limits or qualifies the interest conveyed.’ ” *Kershaw Sunnyside Ranches Inc. v. Yakima Interurban Lines Ass'n*, 156 Wn.2d 253, 264, 126 P.3d 16 (2006) (quoting *Brown v. State*, 130 Wash.2d 430, 437, 924 P.2d 908 (1996)). Thus, if the deed is in statutory warranty form, it carries a presumption of conveying fee simple absolute title. RCW 64.04.030; 6 *Brown*, 130 Wn.2d at 437. Therefore, the statutory warranty deed conveyed by D&J cannot be interpreted as a quitclaim deed.

Next, the language of the deed itself does not support Performance’s interpretation. The deed provides:

The Grantor(s) D&J Shires, LLC, a Washington Limited Liability Company for an in consideration of Ten Dollars and other good and valuable consideration in hand paid, conveys and *warrants* to Colette Glenn, an unmarried woman” the subject property....

“This conveyance is subject to covenants, conditions, restrictions and easements, if any affecting title which may appear in the public record, including those shown on any recorded plat or survey.”

CP 218. [Emphasis added] Nothing in the conveyance itself would suggest that D&J conveyed anything other than its fee simple interest as the Sheriff’s Sale purchaser to Glenn.

Generally, when construing a deed, the intent of the parties is of paramount importance and courts must ascertain and enforce such intent. *Brown v. State*, 130 Wn.2d 430, 437, 924 P.2d 908 (1996). Based on the plain language of the statutory warranty deed, D&J clearly intended to conveyed fee title to Glenn. Further, Glenn stated that she “never would have purchased the property if [she] had not received a Statutory Warranty Deed” and “I never wanted a Sheriff’s Deed” CP 211. Thus, neither party intended for D&J to convey *only* its interest as a purchaser.

Because (1) D&J intended conveyed fee title to Glenn; and (2) D&J did not quitclaim its interest to Glenn, the deed, even if void, did not make Glenn the “successor in interest” of D&J’s rights as purchasers. Therefore, any upset offer should have been made to D&J, and not to

Glenn. Accordingly, the Court did not err when it held the offer was not properly made.

C. When she acquired her interest, Glenn DID NOT HAVE constructive or actual notice of the rights of upset price offerors under RCW 6.23.120.

The trial court did not err when it declared Glenn to be a bona fide purchaser. "A bona fide purchaser for value is one who without notice of another's claim of right to, or equity in, the property prior to his acquisition of title, has paid the vendor a valuable consideration." *Glaser v. Holdorf*, 56 Wn.2d 204, 209, 352 P.2d 212 (1960). The doctrine provides a strong protection for the innocent purchaser, such as Glenn:

The land law has seen its years of progress marked by a continual struggle between one who has legal title to, or an equity or interest in or claim against real estate and one who in good faith parts with consideration in the honest belief that he is acquiring title from another. The law has long recognized that the massive public policy in favor of stimulation of commerce demands the fullest possible protection to a good faith purchaser for value. The bone fide purchaser for value without notice is the favored creature of law.

Tomlinson v. Clarke, 118 Wn.2d 498, 508, 825 P.2d 706 (1992).

By declaring Glenn to be a bona fide purchaser of the Property, CP 50, the Court correctly found that she had neither constructive nor actual knowledge of rights of upset price offerors under RCW 6.23.120. CP 49.

Performance's argument on appeal-that (A) the following recorded documents: (1) the lis pendens and (2) the sheriff's levy, (B) the

redemption laws; and (C) the Order to Issue the Sheriff's Deed does not establish that she had either constructive or actual notice of Performance's rights under RCW 6.23.120.

"It is a well-settled rule that where a purchaser has knowledge or information of facts which are sufficient to put an ordinarily prudent man upon inquiry, and the inquiry, if followed with reasonable diligence, would lead to the discovery of defects in the title or of equitable rights of others affecting the property in question, the purchaser will be held chargeable with knowledge thereof and will not be heard to say that he did not actually know of them. In other words, knowledge of facts sufficient to excite inquiry is constructive notice of all that the inquiry would have disclosed." (Citation omitted.)

Peterson v. Weist, 48 Wash. 339, 341, 93 P. 519 (1908). SEE 2 J.

Pomeroy, *EQUITY* 605 (5th ed. 1941).

The Recorded Documents provides record notice that D&J was the owner of the Property. Citing *Tomlinson v. Clarke*, this Court stated: "Constructive notice exists if the prior interest is recorded." Yet, Performance cannot point to a single recorded document, other than the Lis Pendens, which was recorded before her purchase, that would raise inquiry, much less by the exercise of due diligence, apprise her of interests like that of Performance's rights under RCW 6.23.120. Indeed, the issue of Performance's rights are the subject of appeal, and the standard for imputing notice does not go this far.

Furthermore, other recorded documents, such as the Sheriff's Deed, Recording No. 201404140186 would have ended her inquiry, allowing her to reasonably conclude D&J was the owners of the Property. CP 228.

“The public records show that the Property was not subject to the homestead exemption or any redemption rights. No previously recorded lis pendens changes those court rulings.” CP 105. If Glenn saw the Lis Pendens, and thereby became aware of the court record in *Brookwood*, she would have seen that a Superior Court Commissioner entered an Order eliminating other redemptioners' and a judgment debtor's rights in the Property. She would have also seen that the Sheriff was ordered to issue to D&J Shires a deed to the Property. Thus, a reasonable person would inquire no further, and any concerns of defects in the title would have been alleviated by the Court's Order that remained unchallenged until Performance initiated this law suit.

As Performance points out, “persons who subsequently acquire an interest in the property do so subject to the property's ultimate disposition in the pending suit as the suit was filed” *Snohomish Reg'l Drug Task Force v. 414 Newberg Rd*, 15 Wn.App. 743, 214 P.3d 928 (2009) rev. denied, 168 Wn.2d 1019 (2010). Because the Order to Issue the Sheriff's Deed was the last pleading, i.e. the final disposition, (before this law suit),

Glenn could not be charged with knowledge of the suit Performance would bring, thereafter.

Performance has not established that Glenn had actual or constructive notice of another's claim to the subject property. Therefore, the trial Court did not err in declaring Glenn to be a bona fide purchaser.

V. Respondent David Keene's Cross-Appeal.

Keene cross-appeals the Trial Court's Order that declared as void (1) the Order to Issue the Sheriff's Deed and (2) the Sheriff's Deed.

Rather, the Order, and therefore, the Deed, were only "voidable," meaning they were the result of an erroneous court decision. As such they are not subject to Performance's collateral attack.

Keene argued in his summary judgment motion that to the extent Performance is attacking the issuance of the March, 2014, Order Directing Issuance of Sheriff's Deed in the *Brookwood v. Slighter*, CR 60(b)(5) applied. CP 508. CR 60(b) provides that a final order may be vacated under CR 60(b)(5) in collateral proceedings only if the order is "absolutely void" on jurisdictional grounds. *Mueller v. Miller*, 82 Wn.App. 236, 917 P.2d 604 (1996). Here, Performance filed a separate complaint,

Gooley, 196 Wn.357, 373, 83 P.2d 221 (1938). No party has disputed the Court's personal jurisdiction over the named defendants in *Brookwood*. Therefore, the only issue is whether the Superior Court had subject matter jurisdiction to order an early release of the Sheriff's Deed.

B. The Court Commissioner had subject matter jurisdiction to declare that there were not qualified redemptioners and to order the Sheriff to issue a deed.

A judgment is void only where the court lacks jurisdiction of the subject matter or lacks inherent authority to enter the particular order involved. *Dike v. Dike*, 75 Wn.2d 1, 448 P.2d 490 (1968). The "inherent power to enter order" element is a subset of subject matter jurisdiction and does not differ substantially from that advocated by the *Restatement (Second) of Judgments* §§ 11 (1982).

Section 11 of the *Restatement* defines subject matter jurisdiction: "A judgment may properly be rendered against a party only if the court has authority to adjudicate the type of controversy involved in the action." "A court or agency does not lack subject matter jurisdiction solely because it may lack authority to enter a given order." *Marley v. Dep't of Labor & Indus. of State*, 125 Wn.2d 533, 539, 886 P.2d 189 (1994). "Courts do not lose subject matter jurisdiction merely by interpreting the law erroneously. If the phrase is to maintain its rightfully sweeping definition, it must not

be reduced to signifying that a court has acted without error.” *In re Major*, 71 Wn. App. 531, 534-35, 859 P.2d 1262 (1993).

In *Marley*, the Court held that a tribunal lacks subject matter jurisdiction when it attempts to decide *a type of controversy* over which it has *no authority to adjudicate*. The Court explained:

[T]he focus must be on the words “type of controversy.” If the type of controversy is within the subject matter jurisdiction, then all other defects or errors go to something other than subject matter jurisdiction.

Marley v. Dep’t of Labor & Indus. of State, 125 Wn.2d 533, 539, 886 P.2d 189 (1994) quoting Robert J. Martineau, *Subject Matter Jurisdiction as a New Issue on Appeal; Reining in an Unruly Horse*, 1988 B.Y.U.L. Rev. 1, 28. A lack of subject matter jurisdiction implies that a court has no authority to decide the claim at all, let alone order a particular kind of relief. *Id.*

Here, the *type of controversy* that the issuing court presided over concerned redemption rights. These types of controversy are well within the court’s jurisdiction.

1. The Superior Court has authority to declare who is a qualified redemptor.

The Order at issue declared that there were no qualified redemptors. A Superior Court may competently determine who is a qualified redemptor pursuant to RCW 6.23.010. In addition,

When a sheriff wrongfully refuses to allow any person to redeem, the right to redeem shall not be prejudiced by such refusal, and the sheriff may be required, by order of the court, to allow such redemption.

In interpreting this statute's predecessor (RCW 6.24.170), whose language remained the same as the current version, at least one court held that this statute was authority for issuance of the sheriff's deed. See, *Graves v. Elliot*, 69 Wn.2d 652, 419 P.2d 1008 (1966), overruled on other grounds by *GESA Fed. Credit v. Mutual Life*, 105 Wn.2d 248, 713 P.2d 728 (1986) (Order for issuance of sheriff's deed proper where purchaser had contested right of purported redemptioner, and sheriff had refused to issue deed until after judicial determination) See also, *Fid. Mut. Sav. Bank v. Mark*, 112 Wn.2d 47, 50 (1989) ("Whittall's estate and the IRS moved for an order directing the sheriff to issue a deed to the United States."); *Prince v. Savage*, 29 Wn. App. 201, 202 (1981) ("The trial court granted Grand's motion and directed the sheriff to issue the deed.") These cases stand for the proposition a Court can order the Sheriff's Office to issue the deed.

This line of reasoning, whether correct or erroneous, still bestows the Court with power to adjudicate over the "type of controversy" that Keene brought forth in his motion. Although not specifically authorized, statutes give court a broad range of power. It has been stated that:

the ex parte order, which declared the property free from redemption rights, and said that “upon proper motion, the trial court shall cancel the sheriff’s deed.” *Id.* at 114. The Appeals Court held that “the purchaser at a sheriff’s sale, [] had no right to obtain a finding of abandonment or to eliminate a mortgagor’s redemption rights. *Id.* at 113. [Underlined]

Next, directly contrary to Performance’s argument on summary judgment, and the lower Court’s ruling, the *Roberts* Court held that “the order of July 28 was **erroneous**, and that the trial court erred in refusing to set it aside.” The court stated in a footnote:

In reaching this result, we do not overlook Demarest's various other arguments, including that the Roberts voluntarily relinquished their redemption rights, and that the Roberts somehow participated with him in a way that nullifies the quitclaim deed they gave to Mutual. These arguments are meritless, and we elect not to discuss them.

Id. at fn 22. Just as the Appellate Court in *Roberts* found an *ex parte* Order to be erroneous where the Order (1) declared the property abandoned and (2) established there were no qualified redemptioners, so too must this Court find Keene’s ex parte was also erroneous i.e. the Court had authority but decided incorrectly. And if the Order is merely erroneous, then principles of *Res Judicata* and finality uphold the Order against Performance’s collateral attack.

3. The Court's Order may have been erroneous but it was not void.

Here, the *Brookwood* Order is not void-as the commissioner had statutory authority to adjudicate redemption disputes. Consistent with *Dike*, this Court recently noted that a void judgment is one that “exceed[s]...statutory authority” while an erroneous judgment is one that erroneously interprets the statute. *Marley*, at 334. If the challenged Order was void because of the alleged misapplication of the redemption statutes, it would transform the commissioner's alleged mistake in statutory and case law construction (errors of law) into jurisdictional flaws. This is contrary to the principal of *Res Judicata* or finality. As the *Restatement* warns in classifying an error of law as jurisdictional issue:

transforms it into one that may be raised belatedly, and thus permits its assertion by a litigant who failed to raise it at an earlier stage in litigation. The classification of a matter as one of jurisdiction is thus a pathway of escape from the rigors of the rules of res judicata. By the same token it opens the way to making judgments vulnerable to delayed attack for a variety or irregularities that perhaps better ought to be sealed in a judgment.

Restatement (Second) of Judgments § 12, cmt. b (1982).

Because the issuing court had personal jurisdiction and subject matter jurisdiction over the parties and the Property, its order to issue the Sheriff's Deed. It is merely voidable. Performance has at best shown that the Court made an *erroneous decision*, but not that the Court lacked

subject matter jurisdiction. The *type of controversy* involved in this case was determining who qualified as a redemptioner and whether a deed should be issued. These types of controversies were well within the court's subject matter jurisdiction. Obviously the power to decide includes the power to decide wrongly, and an erroneous decision is binding as one that is correct, until it is set aside or corrected in a manner provided by law.

VI. CONCLUSION

Performance Construction failed to make a qualifying offer to the correct person contemplated under RCW 6.23.120. Even if a qualifying offer were made, the Court was correct in finding that Ms. Glenn did not have actual or constructive knowledge and was therefore a bona fide purchaser for value.

Last, the trial Court, having inherent authority to adjudicate property disputes, to determine who is a qualified redemptioner, and to find that because there were no redemptioners, the redemption period was non-existent, possessed subject matter jurisdiction to make such determinations, whether it decides the issue correctly or not. That portion of the trial Court's Order should be reversed.

RESPECTFULLY SUBMITTED this 2nd day of December, 2015.

The Law Offices of STEPHEN M. HANSEN, PS

 WSBA 47350
for STEPHEN M. HANSEN, WSBA #15642
Attorney for DAVID KEENE

CERTIFICATE OF SERVICE

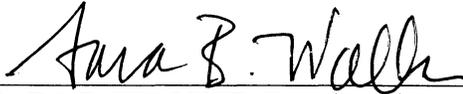
The undersigned certifies, under penalty of perjury under the laws of the State of Washington, that on the 2nd day of December, 2015, I [X] e-mailed [] mailed via regular U.S. mail [] faxed [] delivered by legal messenger a true and correct copy of this document to:

Rodney T. Harmon
Attorney for Performance Construction, LLC
rodharmon@msn.com

Britenae M. Pierce
Attorney for Collette Glenn
pierce@ryanlaw.com

David Abadir
Attorney for Cobalt Mortgage, Inc. and MERS
davidabadir@dwt.com

DATED this 2nd day of December, 2015, at Tacoma, Washington.



SARA B. WALKER, Legal Assistant

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SARA B. WALKER