VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

Fairfax County Redevelopment and Housing Authority

Plaintiff

v. Lekse, et al.

Defendant.

Case No. 2007 - 1140D

ORDER

This matter came to be heard on the 23rd day of June 2009 on the ~~Plaintiff(s)/Complainant(s)~~/Defendant(s)'s motion to strike

Upon the matters presented to the Court it is hereby

ORDERED as follows:

Defendants motion to strike at the close of Plaintiffs evidence is Granted, as Plaintiffs are not entitled to the relief requested, per the Court's ruling and cases cited therein,

and Further ordered that Defendants Lekse and Wells Fargo cross-claim against the Kapanis is nonsuited, as no non-suit has been previously taken.

And the Order is Final.

ENTERED this 23rd day of June, 2009.

Judge

SEEN and objected to regarding the Court's ruling that the Plaintiff is not entitled to the relief requested.

Counsel for Plaintiff/Complainant

SEEN and Agreed to above only, objected to extent other motions to strike not granted or overruled

Counsel for Defendant Lekse and Wells Fargo

George Jeffery Morris for Defendants KAPANIS.

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY,	:	
Plaintiff,	:	
v.	:	**CASE NO. CL-2007-0011400**
JAMES C. RIEKSE, *et al.*,	:	
Defendants.	:	

ORDER OF SUSPENSION

THIS CAUSE came before the Court upon the Motion for Reconsideration filed by Plaintiff Fairfax County Redevelopment and Housing Authority ("Housing Authority") to reconsider and vacate this Court's ruling of June 23, 2009 ("Order"), and

IT APPEARING TO THE COURT that under Rule 1:1 of the Rules of the Supreme Court of Virginia (2009) that this Court will lose jurisdiction of this case on July 14, 2009, and

IT FURTHER APPEARING TO THE COURT that additional time is necessary to consider the merits of the Housing Authority's Motion for Reconsideration, now therefore, it is hereby

ADJUDGED AND ORDERED that the June 23, 2009, Order is suspended until further order of this Court.

THIS CAUSE IS CONTINUED

ENTERED July 1, 2009.

DENNIS J. SMITH, CHIEF JUDGE
FAIRFAX COUNTY CIRCUIT COURT

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VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

Fairfax County Redevelopment and Housing Authority
Plaintiff/Complainant,

v.

Riekse, et al.
Defendant.

Chancery/Law No. CL-2007-11400

ORDER

This matter came to be heard on the 10th day of September 2009 on the Plaintiff(s)/~~Complainant(s)/Defendant(s)~~'s motion for reconsideration of the June 23, 2009 order

Upon the matters presented to the Court it is hereby

ORDERED as follows:

the motion for reconsideration is DENIED.

ENTERED this 10th day of Sept, 2009

Judge

SEEN and Objected to

Counsel for Plaintiff/Complainant

for the reasons stated in the motion for Reconsideration and at today's hearing.

SEEN and Agreed as to issues on reconsideration

Counsel for Defendant Riekse & Wells Fargo

Counsel for Defendants Kapadi

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ASSIGNMENTS OF ERROR

1. The Circuit Court erred when it ruled that the only remedy available to the Housing Authority in this case is an action in ejectment, granted the Appellees' motion to strike, and dismissed this case.

2. The Circuit Court erred when it ruled that it could not declare that the conveyance of the subject property from the Kapanis to Riekse was *void ab initio.*

ASSIGNMENTS OF CROSS-ERROR

1. The trial court erred in overruling Appellees demurrer (and not reconsidering such ruling) and thereafter denying Appellees motion to strike because the trial court failed to strictly construe the putative restrictive covenant and condition subsequent against the Housing Authority and in favor of the free alienability of property.

2. The trial court erred in overruling Appellees demurrer and motion to strike as to both the covenant running with the land count and condition subsequent count because the triggering events of the subject option to repurchase did not contemplate the foreclosure sale of the property and was personal to the original grantee.

3. The trial court erred in overruling Appellees demurrer and motion to strike as the covenant running with the land count because a personal triggering event such as death or determination to sell cannot touch and concern the land.

4. The trial court erred in denying Appellees motion to strike because the Housing Authority's claims are time-barred.

5. The trial court erred in overruling Appellees demurrer and motion to strike the covenant running with the land count because a covenant when breached is personal, and ceases to run with the land.