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### Summary of Chapman v. Deutsche Bank Nat'l Trust Co., 129 Nev. Adv. Op. 34

Timothy A. Wiseman  
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CIVIL PROCEDURE – ACTIONS FOR QUIET TITLE AND UNLAWFUL DETAINER

**Summary**

The Court considered whether a quiet title action was characterized as *in personam*, *in rem*, or *quasi in rem*. The Court also considered whether an action for unlawful detainer was characterized as *in personam*, *in rem*, or *quasi in rem*.

**Disposition/Outcome**

The Court noted that the distinction between *in rem* and *quasi in rem* was historically significant but of little relevance now. Thus, it sought only to determine whether these actions were *in personam* as one category or some form of *in rem* action without distinguishing between *in rem* and *quasi in rem*. The Court found that both actions for quiet title and unlawful detainer were properly categorized as actions *in rem*.

**Factual and Procedural History**

Deutsche Bank National Trust Company attempted to foreclose upon the home of George and Brenda Chapman. However, the Chapmans did not leave the home, and Deutsche Bank filed an unlawful detainer action<sup>2</sup> to have them removed. The Chapmans filed a quiet title<sup>3</sup> action claiming that Deutsche Bank owned neither the promissory note nor the deed of trust and that it had foreclosed without the notice required.<sup>4</sup>

Deutsche Bank removed the quiet title action to federal court and then filed to dismiss for failure to state a claim. The Chapmans asked the federal court to remand to state court on the basis that the unlawful detainer action gave the state court exclusive jurisdiction over the real property in question. The federal court granted the motion to dismiss after denying the motion to remand.

The Chapmans appealed to the Ninth Circuit, claiming that the prior exclusive jurisdiction doctrine required the matter to be decided by the state court. The Ninth Circuit stated that it would be proper to vacate and remand under the prior exclusive jurisdiction doctrine if both the quiet title actions and unlawful detainer actions were *in rem* or *quasi in rem* actions. The Ninth Circuit certified those questions to the Nevada Supreme Court.

**Discussion**

Justice Pickering wrote the unanimous opinion for the court, sitting en banc. The prior exclusive jurisdiction doctrine requires that "when one court is exercising *in rem* jurisdiction

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<sup>1</sup> By Timothy A. Wiseman

<sup>2</sup> NEV. REV. STAT. § 40.255 (2011).

<sup>3</sup> NEV. REV. STAT. § 40.010 (2011).

<sup>4</sup> NEV. REV. STAT. § 107.080 (2011).

over a *res*, a second court will not assume *in rem* jurisdiction over the same *res*.”<sup>5</sup> If both causes of action are *in rem* then the federal court cannot take jurisdiction over the quiet title action while the state court has jurisdiction over the same property.

The Court noted that "a proceeding *in rem* is one taken directly against property, and has for its object the disposition of the property, without reference to the title of individual claimants."<sup>6</sup> The Court has found an action to be *in rem* when the "direct object is to reach and dispose of the property of the parties described in the complaint."<sup>7</sup>

An action for quiet title is *in rem* or *quasi in rem* since the purpose of the action is to determine the claims on the title and relief depends on the superiority of title in property.<sup>8</sup> Moreover, requesting monetary relief in addition to determining the status of the title does not defeat the *in rem* nature of the action.

Similarly, an unlawful detainer action is primarily intended to restore possession of property. Typically, if there is a trial for unlawful detainer the issues center on whether the required notice was properly given and who has a superior right to possess the property.<sup>9</sup> Since this centers on possession, which is a property interest, unlawful detainer is also an *in rem* action.

## **Conclusion**

The Court concluded, in response to the Ninth Circuit's questions, that both quiet title and unlawful detainer are *in rem* in nature.

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<sup>5</sup> *Marshall v. Marshall*, 547 U.S. 293, 311 (2006).

<sup>6</sup> *Pennoyer v. Neff*, 95 U.S. 714, 734 (1877).

<sup>7</sup> *Robinson v. Kind*, 23 Nev. 330, 343, 47 P. 977, 978-79 (1897).

<sup>8</sup> *Arndt v. Griggs*, 134 U.S. 316, 321 (1890)

<sup>9</sup> *Davidsohn v. Doyle*, 108 Nev. 145, 150, 825 P.2d 1227, 1230 (1992); *Lachman v. Barnett*, 18 Nev. 269, 274 3 P. 38, 41-42 (1884).