

Cause No. 25-00236

Stormy Canady

BARNEY JOE DONALSON, JR.
dba God's Property Ministries

IN THE DISTRICT COURT OF

v.

VAN ZANDT COUNTY, TEXAS

CSD VAN ZANDT LLC

294TH JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION FOR BILL OF REVIEW

AND, IN THE ALTERNATIVE, SUIT TO QUIET TITLE
AND DECLARATORY RELIEF

I. PARTIES

**Plaintiff: BARNEY DONALSON, JR., d/b/a GOD'S PROPERTY
MINISTRIES**, General Delivery, Henderson, TX 75652.

Plaintiff is currently a Texas resident and holds a present ownership interest in the real property that is the subject of this action by virtue of a September 2025 conveyance from Udo Birnbaum of a ten percent (10%) undivided interest, with the remaining ninety percent (90%) interest transferring upon Birnbaum's death.

Defendant: ROBERT DOW, individually and d/b/a **CSD VAN ZANDT, LLC**, 6115 Owens St Ste 201, Dallas, TX 75235-6758,

Defendant claims title through an alleged conveyance from Lisa Girot.

II. JURISDICTION AND VENUE

This Court has jurisdiction pursuant to *Texas Rule of Civil Procedure 329b(f)* and the Court's inherent equitable authority to set aside a judgment obtained through **extrinsic fraud**.

Venue is proper in Van Zandt County, Texas, where the property is located and where the prior judgment sought to be reviewed was entered.

III. BACKGROUND FACTS

1. In 2002, Gwendolyn Thibodeaux executed an unrecorded deed conveying her interest in the subject real property to Udo Birnbaum.
2. In 2017, Louis Thibodeaux executed a recorded deed conveying his interest in the subject real property to Udo Birnbaum.
3. These 2002 and 2017 deeds are valid and binding on all heirs of Gwendolyn and Louis Thibodeaux, regardless of whether the deeds were recorded and/or when they were recorded. *See Tex. Prop. Code § 13.001(b)*.
4. Louis Thibodeaux later died in Louisiana. Lisa Girot, an alleged beneficiary of his will, opened a succession proceeding in Jefferson Davis Parish, but never completed it. Specifically, no inventory was filed, no notice to creditors was issued, no administration occurred, and no Judgment of Possession was ever rendered. *See Succession of Louis*

Thibodaux, No. P-19-11 (34th Judicial District Court, Jefferson Davis Parish, Louisiana).

5. Under Louisiana law, ownership of succession property does not vest in any heir or legatee until a Judgment of Possession is signed. *See La. Code Civ. Proc. arts. 3001, 3371; Succession of McLendon, 383 So.2d 55, 57 (La. App. 2 Cir. 1980).*
6. Despite lacking ownership or title, Lisa Girot fraudulently recorded a preliminary order from the Louisiana succession in Texas real-property records, and falsely represented to Van Zandt County taxing officials that she owned the property.
7. Next, Lisa Girot (along with Thibodeaux's purported heirs) attempted to convey the property by written deed to Defendant Robert Dow.
8. Robert Dow had Udo Birnbaum evicted from his home, stole Birnbaum's possessions therein, and later sued Birnbaum in Van Zandt County to quiet title. Dow obtained summary judgment solely on a **bona fide purchaser theory** which assumed validity of Girot's ownership and authority to convey title.
9. At the time of that litigation, neither the parties nor the Court were aware that the Louisiana succession **remained pending**, and that Girot never obtained a Judgment of Possession and therefore never acquired title.
10. These facts were not reasonably discoverable through Texas public records and required physical inspection of Louisiana probate files.

IV. BILL OF REVIEW

(Extrinsic Fraud and Newly Discovered Evidence)

A. Governing Law

A bill of review is an independent equitable action to set aside a prior judgment that is no longer appealable when the judgment was rendered as a result of **extrinsic fraud**, official mistake, or wrongful conduct that prevented a party from fully and fairly presenting a meritorious claim or defense. *Alexander v. Hagedorn*, 226 S.W.2d 996, 998 (Tex. 1950); *Caldwell v. Barnes*, 975 S.W.2d 535, 537 (Tex. 1998). **Extrinsic fraud** is fraud that denies a litigant the opportunity to litigate fully by keeping material facts from the court or the opposing party. *Montgomery v. Kennedy*, 669 S.W.2d 309, 312 (Tex. 1984). It includes the concealment or misrepresentation of jurisdictional or foundational facts upon which a judgment depends. *Rathmell v. Morrison*, 732 S.W.2d 6, 13 (Tex. App.—Houston [14th Dist.] 1987, no writ).

B. Extrinsic Fraud Exists as a Matter of Law

The prior Van Zandt County judgment quieting title in favor of Dow rested on a **foundational premise** that Lisa Girot possessed lawful title and authority to convey the property.

That premise was **false**. At all relevant times, the Louisiana succession of Louis Thibodeaux remained **open and unadministered**, and **no Judgment of Possession was ever rendered**. Under Louisiana law, ownership of succession property **does not vest in heirs or legatees until a Judgment of**

Possession is signed. *Succession of McLendon*, 383 So.2d 55, 57 (La. App. 2 Cir. 1980); La. Code Civ. Proc. arts. 3001, 3371.

Despite this, Girot recorded a **non-dispositive preliminary probate order** in Texas and affirmatively represented that she owned the property. She then executed a deed purporting to convey title she did not possess. This conduct occurred **outside the Texas litigation**, prevented disclosure of dispositive ownership facts, and deprived both Birnbaum and the court of a fair adjudication. That is extrinsic fraud as a matter of law.

Further, Girot was the **notary who acknowledged the 2017 deed from Louis Thibodeaux to Udo Birnbaum**, giving her actual knowledge that the estate had already divested itself of the property. Her later reliance on the pending succession to claim title was knowingly false.

C. Newly Discovered Evidence

Newly discovered evidence supports bill-of-review relief when it: **(1)** existed at the time of the prior judgment; **(2)** was not discoverable through reasonable diligence; and **(3)** would probably have produced a different result. *See Hanks v. Rosser*, 378 S.W.2d 31, 34 (Tex. 1964).

The **continued pendency of the Louisiana succession and the absence of any Judgment of Possession** existed at the time of the prior suit, were **not discoverable through Texas public records**, and required in-person inspection of Louisiana probate files. Had the court known that Girot never

acquired title, Dow's bona fide purchaser claim would have failed as a matter of law. A purchaser cannot obtain title from a grantor who had none to convey. *See Slaughter v. Qualls*, 162 S.W.2d 671, 674 (Tex. 1942).

V. PLAINTIFF WAS NOT NEGLIGENT

A bill-of-review plaintiff is not negligent for failing to discover facts that were concealed or not reasonably accessible. *PNS Stores, Inc. v. Rivera*, 379 S.W.3d 267, 275 (Tex. 2012). Louisiana probate records are not indexed in Texas title systems and are not reasonably discoverable through ordinary diligence by a *pro se* litigant. Plaintiff and his predecessor exercised reasonable diligence under the circumstances.

VI. RES JUDICATA AND COLLATERAL ESTOPPEL DO NOT APPLY

Res judicata does not bar claims based on **extrinsic fraud** or **newly discovered evidence**. *See Barrera v. State*, 130 S.W.3d 253, 259 (Tex. App.—Houston [14th Dist.] 2004, no pet.). Further, privity cannot arise from a void conveyance. *See Noble Mortg. & Invs., LLC v. D&M Vision Invs., LLC*, 340 S.W.3d 65, 76 (Tex. App.—Houston [1st Dist.] 2011, no pet.) (A purchaser cannot acquire greater rights than its grantor possessed). A void conveyance passes no title—even to an innocent purchaser. *See Slaughter v. Qualls*, 162 S.W.2d 671, 674 (Tex. 1942).

VII. ALTERNATIVE CLAIM – QUIET TITLE

If the prior judgment is vacated, Plaintiff seeks to quiet title based on: **(1)** the 2002 Gwendolyn Thibodeaux-Birnbaum deed; **(2)** the 2017 Louis Thibodeaux-Birnbaum deed; and **(3)** Girot's (if she is ultimately determined by the Louisiana succession court to be Louis Thibodeaux's heir) lack of authority to convey because she, as an heir, is lawfully bound by the unrecorded 2002 and 2017 deeds as per *Tex. Prop. Code* § 13.001(b).

VIII. RESPONSE TO RES JUDICATA, COLLATERAL ATTACK, AND “FINALITY OF JUDGMENT” ARGUMENTS

Dow is expected to argue that this action is barred by res judicata, collateral estoppel, or constitutes an impermissible collateral attack on a final judgment. Each argument fails as a matter of law.

A. Res Judicata Does Not Apply to Extrinsic Fraud

Res judicata does not bar a bill of review based on extrinsic fraud that prevented a full and fair adjudication. *Caldwell*, 975 S.W.2d at 537; *Barrera v. State*, 130 S.W.3d 253, 259 (Tex. App.—Houston [14th Dist.] 2004, no pet.). The fraud here was **external to the prior litigation** and concealed dispositive ownership facts. The prior judgment therefore lacks preclusive effect.

B. This Is a Direct, Not Collateral, Attack

A bill of review is a **direct attack** on a judgment. *King Ranch, Inc. v. Chapman*, 118 S.W.3d 742, 751 (Tex. 2003). Thus, this action is not a collateral attack.

C. No Privity Can Arise from a Void Conveyance

Privity cannot arise from a void deed. A purchaser cannot acquire greater rights than the grantor possessed. *Noble Mortg. & Invs., LLC v. D&M Vision Invs., LLC*, 340 S.W.3d 65, 76 (Tex. App.—Houston [1st Dist.] 2011, no pet.). Because Girot never acquired title, her conveyance passed none—regardless of Dow’s claimed innocence. *Slaughter*, 162 S.W.2d at 674.

D. Bona Fide Purchaser Status Fails as a Matter of Law

Bona fide purchaser protection presupposes that the grantor held legal title. Where the grantor lacked title entirely, the doctrine does not apply. *Id.*

IX. QUIET TITLE & TEX. PROP. CODE § 13.001(b)

Even assuming arguendo that Girot is later declared an heir, **Texas Property Code § 13.001(b)** provides that an unrecorded deed is binding on the grantor and the grantor’s heirs. Accordingly, both the **2002 unrecorded deed** from Gwendolyn Thibodeaux, and the **2017 deed** from Louis Thibodeaux are binding on all heirs, including Girot. She therefore had no conveyable interest.

X. DECLARATORY RELIEF

Plaintiff seeks declarations that: **(1)** the 2002 and 2017 deeds are valid and binding on all heirs; **(2)** neither Girot nor any other Louis Thibodeaux heir acquired ownership of the property; **(3)** Girot's conveyance to Dow was fraudulent and void; and **(4)** Plaintiff holds a valid ownership interest.

XI. PRAYER

Plaintiff respectfully prays that the Court: **(1)** grant this Bill of Review; **(2)** vacate the prior judgment quieting title in favor of Dow; **(3)** grant alternative quiet-title and declaratory relief; **(4)** award costs and equitable relief; and **(5)** grant all further relief to which Plaintiff is justly entitled.

Respectfully submitted,

/s/ Barney Joe Donalson, Jr.

BARNEY DONALSON
c/o God's Property Ministries
General Delivery
Henderson, TX 75652

VERIFICATION

I, Barney Joe Donalson, Jr., lacking a permanent residence but presently sleeping at 379 Ling Street, Bayou Vista, Texas, 77563, do declare under penalty of perjury that the above and foregoing is true and correct. Executed in Galveston County, Texas, in the USA, on this 26th day of December, 2025.

/s/ Barney Joe Donalson, Jr.

BARNEY DONALSON

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