

CAUSE NO. 2006-12-B8515-CV

PROPERTY OWNERS ASSOCIATION OF
TERLINGUA RANCH, INC.

IN THE DISTRICT COURT

VS.

394TH JUDICIAL DISTRICT OF

MARION CRAIG SUBER

BREWSTER COUNTY, TEXAS

SECOND ORDER GRANTING PARTIAL SUMMARY JUDGMENT

On the 6th day of June, 2011, at the duly scheduled hearing the Court reheard Plaintiff's Motion for Summary Judgment, and heard Defendant's First Amended Motion for Summary Judgment. Plaintiff appeared through its attorney of record, W. David Moore, and Defendant appeared through his attorneys of record, Pat Long Weaver and Rod Ponton.

The Court has considered the pleadings, the above-described competing motions for summary judgment, the responses to these motions, the summary judgment evidence, and the arguments of counsel.

The Court finds that no genuine issue of material fact exists with regard to the 2006 "Assignment of Easements and Rights" from Terramar Corporation to Plaintiff, recorded at Volume 207, Pages 418-423, Brewster County Deed Records. The Court finds that at the time of the 2006 "Assignment of Easements and Rights," Terramar Corporation had no interest in the real property in question, including any easement rights that may have existed, so the attempted conveyance of easement rights from Terramar Corporation to Plaintiff through the 2006 "Assignment of Easements and Rights" was invalid as a matter of law. Defendant's First Amended Motion for Summary Judgment, to the extent that it pertains to the 2006 "Assignment of Easements and Rights," is hereby GRANTED.

FILED
At 10:13 o'clock *a*

Second Order Granting Partial Summary Judgment
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OCT - 3 2011
Joann Salgado
JO ANN SALGADO
District Clerk, Brewster County, T.
By _____ Deputy

*10/3/11
This is will
serve original
order
Per Judge
Ables*

The Court has taken under advisement the issue of the effect of the 1976 "Assignment and Easement" from Terramar Corporation to Plaintiff, recorded at Volume 200, Pages 119-120, Brewster County Deed Records, on the real property at issue in this case. Any ruling on this issue is reserved until after the completion of supplemental briefing, pursuant to this Order.

It is accordingly ORDERED, ADJUDGED, and DECREED that the 2006 "Assignment of Easements and Rights: from Terramar to Plaintiff is invalid, and conveyed no interest in the real property at issue to Plaintiff.

It is further ORDERED that Plaintiff and Defendant submit with the Court and opposing counsel a supplemental brief pertaining to the effect of the 1976 "Assignment and Easement" on the real property that is the subject of this suit by no later than August 12, 2011. Each party's response to said supplemental brief shall be filed by no later than August 19, 2011.

Defendant's First Amended Motion for Summary Judgment is hereby GRANTED IN PART.

Signed this 3 day of Oct August, 2011.



JUDGE PRESIDING