

TEXAS CASE LAW UPDATE

covering 2021 and early 2022 cases

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APRIL 22, 2022

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Titles and Conveyancing

Broadway National Bank v. Yates Energy Corp., 631 S.W.3d 16 (Tex. 2021)

- Practical Issue: When is your fee simple really a life estate?
- Answer: When prior parties say so by recording a correction deed!
- 2005 Original Deed: Bank, as trustee, executed a mineral deed to siblings in which one sibling, John, received a $\frac{1}{4}$ fee simple interest
 - John was supposed to receive a life estate
- 2006 First Correction Deed, by Bank, as trustee, changed John's interest to a life estate with remainder to other parties
 - This deed was ineffective because John had not signed it
- 2012, John executed a royalty deed to Yates, who subsequently conveyed to others
- 2013 Second Correction Deed by Bank, which no longer owned legal title, and parties to the Original Deed, including John, again granting John a life estate, but this was not signed by Yates or its successors
- Legal Issue: Tex. Prop. Code. §5.029(b)(1) requires a correction instrument making a material correction to be "executed by each party to the recorded original instrument [being corrected]... or, if applicable, a party's heirs, successors, or assigns"
- **Held:** The "or, if applicable" clause was not applicable because the original parties were available to execute the correction instrument

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Broadway (cont.)

- The SCOT considers 7 canons of statutory construction but chiefly focused on the following:
“As a contextual matter, we interpret related provisions in light of the statutory scheme as a whole.”

Dissenters—Justices Busby, Guzman, Lehrmann, and Blacklock:

- “The plain language of the statute requires an assign to execute the deed ‘if applicable,’ and an assignment made the assignees applicable...”
- “If this language were not clear enough, surrounding statutory provisions and common-law principles confirm that an original party who assigned its entire interest [here, the Bank Trustee] cannot defeat the rights of its assignee.”
- “The Court's approach is also contrary to the Texas Title Examination Standards and will destabilize our record title system.”

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Broadway (cont.)

Additional holding (no dissenters):

- The 4-year S/L for reformation and 4-year catch-all SOL do not apply because the correction instrument statutes are a self-help mechanism that does not involve the filing of a cause of action
- Correction instruments are analogous to the statutory *cy pres* provision, Tex. Prop. Code §5.043, applied in *Yowell v. Granite Operating Co.*, 620 S.W.3d 335 (Tex. 2020), which is also not subject to a S/L

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Concho Resources, Inc. v. Ellison, 627 S.W.3d 226 (Tex. 2021)

Boundary Stipulation

- A 1927 Deed conveyed and described that portion of a section located “North and West of the public road...,” but understated the conveyed acreage by 154 acres
- Multiple conveyances of NW portion and remaining SE portion continued to understate the size of the NW portion by 154 acres and overstate the size of the SE portion by 154 acres
- In 2008, at the request of a landman for Samson (the mineral lessee) of the SE parcel, successors to both parcels signed a boundary stipulation “effective, for all purposes,” on July 8, 1987, that moved the boundary from the road further north into the NW parcel so make the deeds coincide with the stated acreage amounts in the prior deeds

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Concho (cont.)

- Trial court: Boundary stipulation is effective.
- Court of Appeals:
 - Boundary stipulation was “void”:
 - Because the land descriptions in the prior deeds were not ambiguous, and
 - Because the stipulation did not meet the standards of a conveyance, and thus could not qualify as a correction deed under Tex. Prop. Code 5.027
 - Moreover, a void stipulation cannot be ratified
- SCOT: Boundary stipulation was not “void” and could be, and was, ratified

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First appeared as part of the conference materials for the
48th Annual Ernest E. Smith Oil, Gas and Mineral Law Institute session
"Case Law Update: Part One"