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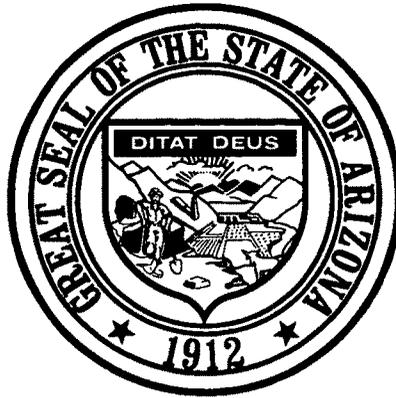
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ARIZONA OIL AND GAS UPDATE



By: *Ryan Morgan*

*Murphy Farrell Development, LLLP v. Sourant*¹

In *Murphy Farrell*, the court's holding concerned, *inter alia*, the effect of an acreage discrepancy in an agreement for the sale of certain surface mineral rights (i.e., the right to mine certain decorative boulders for use in landscaping) and determining the applicability of the doctrine of after-acquired title as well as the enforceability of a right of first refusal to purchase a quarry.²

The dispute arose from a contract in which the defendant agreed to sell the plaintiff mineral rights, described by a metes and bounds legal description that covered approximately 240 acres; however, the agreement also stated that the described land contained 320 acres.³ The sale was consummated without either party addressing this inconsistency. Notwithstanding the fact that a plat of the metes and bounds description would have revealed that an eighty-acre portion of the land was not included therein, both parties apparently shared a mistaken belief as to the boundaries of what was being conveyed.⁴

The defendant subsequently acquired the surface mining rights of this eighty-acre parcel and conveyed its rights therein together with rights to additional acreage to a third party. The plaintiff sued and requested equitable relief be granted, asserting that it should be

1. *Murphy Farrell Dev., LLLP v. Sourant*, 272 P.3d 355 (Ariz. Ct. App. 2012).

2. The parties raised additional claims which are not germane to the court's holding on the real property issues discussed herein, and consequently a review and analysis of the same are omitted.

3. *Murphy Farrell*, 272 P.3d at 358.

4. *Id.*

awarded title to the eighty-acre parcel under the doctrine of after-acquired title based upon the original sale agreement.⁵

That same contract provided the plaintiff with the right of first refusal to acquire what was described as thirty acres as to which the defendant had the right to operate a quarry for extraction of granite. Ultimately, the defendant received only a lease to develop his quarry on ten acres within the thirty-acre area originally contemplated by the parties; however, the defendant also acquired a lease to develop a quarry on a fifty-acre parcel located nearby.⁶ The plaintiff sought a declaratory judgment to (a) limit the defendant's quarry activities to the original thirty-acre area and (b) determine the property covered by the plaintiff's right of first refusal.⁷

The court held that the trial court had failed to address the plaintiff's rights under the doctrine of after-acquired title and remanded the matter to the trial court for a review of that issue. As to the quarry property, the court held that the defendant breached his contractual obligation to provide the plaintiff its right of first refusal and remanded the case to the trial court to determine the parties' intent and what acreage should be covered by the right of first refusal.⁸

5. *Id.* at 359.

6. *Id.* at 358.

7. *Id.* at 366.

8. *Id.*