

MARKS & WEINBERG, P.C.

Oaks Shopping Center, Inc. v. Justice Marketing, Inc.

688 So. 2d 456 (Fla. 1997)

Oaks Shopping Center leased real property to Justice Marketing, Inc. ("Justice") and retained a landlord lien on the equipment kept on the premises. Justice sold the equipment to a third person during the term of the lease.

The owners claimed that they had a purchase money security interest in the equipment superior to Landlord since they had loaned money to Justice to buy the equipment. However, they had not perfected the lien and the court determined that, even if prior in time, the owners' lien would not take precedence over the landlord lien because it should have been perfected, while the landlord lien did not need to be filed or recorded to be perfected.

The court also found that since the owners caused Justice to sell property subject to a landlord lien they were guilty of intentionally defeating, hindering, or otherwise delaying enforcement of the lien. NOTE: The court may not have "bought" the bona fides of the owners' "lien", but this case could make for confusing law.



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