

NO. 2020-73679

MANUEL A. ACOSTA and
ROSARIO S. ACOSTA

vs.

PECHUA, a Nevada corporation;
THE ACOSTA FAMILY TRUST with
VINH TRUONG, TRUSTEE;
COUNTRYWIDE ASSET MANAGEMENT,
LLC, a Nevada Corporation;
PREFORECLOSURE SPECIALIST, LLC,
a foreign limited liability company;
THE WESTCREST SPECIALIST TRUST,
QUANG V. TRUONG, TRUSTEE; and
REALSTONE ADVISORS & ASSOCIATES,
LLC, a Texas limited liability company

IN THE DISTRICT COURT

270th JUDICIAL DISTRICT

HARRIS COUNTY, TEXAS

PLAINTIFFS' SEVENTH AMENDED PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, MANUEL A. ACOSTA and ROSARIO S. ACOSTA, Plaintiffs, and file this, their Sixth Amended Petition, complaining of PECHUA, a Nevada corporation; THE ACOSTA FAMILY TRUST with VINH TRUONG, TRUSTEE; REALSTONE ADVISORS & ASSOCIATES, LLC, a Texas limited liability company; COUNTRYWIDE ASSET MANAGEMENT, LLC, a Nevada Corporation; PREFORECLOSURE SPECIALIST, LLC, a foreign limited liability company; THE WESTCREST SPECIALIST TRUST, QUANG V. TRUONG, TRUSTEE; VINH QUANG TRUONG a/k/a QUANG V. TRUONG, individually; and JESSICA DAVALOS, individually, and for cause of action and complaint would show unto the Court as follows:

Parties

1. MANUEL A. ACOSTA and ROSARIO S. ACOSTA, Plaintiffs, are individuals residing in Harris County, Texas.
2. PECHUA, Defendant, is a Nevada corporation, which has appeared herein, and may

be served with a copy of this amended petition by serving its attorney of record in accordance with the Texas Rules of Civil Procedure.

3. THE ACOSTA FAMILY TRUST with VINH TRUONG, TRUSTEE, Defendant, is a Trust which has appeared herein, and may be served with a copy of this amended petition by serving its attorney of record in accordance with the Texas Rules of Civil Procedure.

4. COUNTRYWIDE ASSET MANAGEMENT, LLC, is a Nevada limited liability company which has appeared herein and may be served with a copy of this amended petition by serving its attorney of record in accordance with the Texas Rules of Civil Procedure.

5. PREFORECLOSURE SPECIALIST, L.L.C., is a Nevada limited liability company which has appeared herein and may be served with a copy of this amended petition by serving its attorney of record in accordance with the Texas Rules of Civil Procedure.

6. THE WESTCREST SPECIALIST TRUST, QUANG V. TRUONG, TRUSTEE Defendant, is a Trust which has appeared herein, and may be served with a copy of this amended petition by serving its attorney of record in accordance with the Texas Rules of Civil Procedure.

7. REALSTONE ADVISORS & ASSOCIATES, LLC, is a Texas limited liability company which has appeared herein and may be served with a copy of this amended petition by serving its attorney of record in accordance with the Texas Rules of Civil Procedure.

8. VINH QUANG TRUONG a/k/a QUANG V. TRUONG is an individual who has appeared herein and may be served with a copy of this amended petition by serving her attorney of record in accordance with the Texas Rules of Civil Procedure.

9. JESSICA DAVALOS is an individual who has appeared herein and may be served with a copy of this amended petition by serving her attorney of record in accordance with the Texas Rules of Civil Procedure.

Venue

10. Venue is proper in Harris County Texas since the real property made the basis of this dispute between the parties is located in Harris County Texas.

Discovery Control Plan

11. Pursuant to Texas Rule of Civil Procedure 190.3 Plaintiffs intend to conduct discovery in this case on a Level 2 Discovery Control Plan.

Background

12. On April 27, 1995, Plaintiff Manuel Acosta purchased the real property known as Lot Seventy-Six (76) and the North 15 feet of Lot Seventy-Five (75), in Block Seven (7), of Ridgcrest Addition, Section Two (2), an addition in Harris County, Texas according to the map or plat thereof recorded in Volume 37, Page 12 of the Map Records of Harris County, Texas (the “Property”).

13. The deed for the Property was recorded under Harris County File No. R375694 of the Real Property Records of Harris County, Texas. Plaintiffs secured a \$56,050.00 loan to purchase the Property. On April 27th 1995, Plaintiffs executed a Deed of Trust payable to the order of Standard Federal Bank, a federal savings bank (the “Loan”), which placed a first lien on the Property to secure the lender’s loan. Property taxes and insurance payments were escrowed with the lender under the Loan.

14. Plaintiffs have lived on the Property for the last twenty-eight (28) years – or since April 27, 1995. Plaintiffs have made payments on the Loan since the 1995 closing and continue to make monthly payments on the Loan to this day. Plaintiffs’ payments on the Loan include payments for principal, interest, and an escrow for ad valorem taxes. The loan servicer has timely paid Plaintiffs’ ad valorem taxes each year as Plaintiffs pay the ad valorem tax amount into escrow with its lender.

15. In 2020, Plaintiffs decided to sell the Property to a third-party and executed an earnest money contract to sell the Property. The title company listed in the earnest money contract submitted their commitment for title insurance for Plaintiffs to review. Plaintiffs were shocked to discover the current owner of the Property listed as Defendant PECHUA, a Nevada corporation. Plaintiffs did not know who Defendant PECHUA or why it was listed as the owner of Plaintiffs' Property.

16. Upon further research, Plaintiffs discovered a Warranty Deed to Trustee dated March 26, 2005 and filed in the Harris County Real Property Records under Clerk File No. Y355912 wherein Plaintiffs allegedly signed the warranty deed transferring their Property to Defendant THE ACOSTA FAMILY TRUST with VINH TRUONG, TRUSTEE (the "**Trustee Deed**").

17. Plaintiffs never agreed to sell their Property or to convey their Property to anyone – let alone to Defendant THE ACOSTA FAMILY TRUST with VINH TRUONG, TRUSTEE. Plaintiffs never agreed to execute the Trustee Deed. Plaintiffs never received any consideration from the alleged conveyance in the Trustee Deed. Plaintiffs have never setup a family trust. Despite having a trust named after them, Plaintiffs have no knowledge of who Defendant VINH TRUONG is or why he was acting as trustee to a trust named after them. Plaintiffs have never received any mail at their Property that was addressed to another party – specifically, Plaintiffs have never received any mail at the Property that was addressed to any of the Defendants named herein that would put Plaintiffs on notice of the fraudulent Trustee Deed. Plaintiffs' homeowner insurance, that they pay annually, list Plaintiffs as the owner of the Property. Plaintiffs have paid its mortgage Loan every single month, including property taxes and homeowner's insurance that named Plaintiffs as the insured. Plaintiffs had no reason to believe anyone else was the owner of the Property until they attempted to sell the Property.

18. The fraudulent conveyance in the Trustee Deed was allegedly witnessed by ELIZABETH NGUYEN, who was Defendant VINH TRUONG's wife. ELIZABETH NGUYEN has admitted that she did not witness the signing of the Trustee Deed and that her signature found on the Trustee Deed is forged and/or not genuine.

19. The fraudulent conveyance in the Trustee Deed was allegedly notarized by Defendant JESSICA DAVALOS, who was Defendant VINH TRUONG's sister-in-law. On information and belief, Plaintiffs believe the beneficiary of THE ACOSTA FAMILY TRUST was Defendant JESSICA DAVALOS – the same person who notarized the fraudulent Trustee Deed.

20. The fraudulent Trustee Deed stated at the top after its recording it was to be returned to EscapeHouston, Inc, at 101 Convention Center Drive, Suite 700, Las Vegas, NV 89109. Defendant Vinh Truong was the director of EscapeHouston, Inc at the time the fraudulent Trustee Deed was recorded.

21. Plaintiffs did not agree to sign the Trustee Deed and believe their signatures were fraudulent acquired or forged. Plaintiffs did not setup a family trust and did not receive any consideration for the alleged sale of the Property to Defendant THE ACOSTA FAMILY TRUST, VINH TRUONG, TRUSTEE. Plaintiff did not agree to "gift" the Property to Defendant THE ACOSTA FAMILY TRUST, VINH TRUONG, TRUSTEE. To the best of their knowledge, Plaintiffs have never met Defendants VINH TRUONG or JESSICA DAVALOS. Defendant Vinh Truong has testified under oath that he has no knowledge or evidence that any money was paid to Plaintiffs for the conveyance under the Trustee Deed.

22. One day after the fraudulent conveyance of Plaintiff's Property to Defendant THE ACOSTA FAMILY TRUST, VINH TRUONG, TRUSTEE, Defendant VINH TRUONG executed a Deed of Trust in favor of Defendant REALSTONE ADVISORS & ASSOCIATES, LLC (the "**Deed of Trust Loan**"). Elizabeth Nguyen, Vinh Truong's wife at the time, is listed as the trustee

of the Deed of Trust Loan. Defendant JESSICA DAVALOS, Vinh Truong's sister-in-law, allegedly notarized the Deed of Trust Loan. Defendant VINH TRUONG testified under oath that he has no knowledge of whether funds were disbursed by Defendant REALSTONE ADVISORS & ASSOCIATES, LLC under the Deed of Trust Loan or who they might have been disbursed to. Defendants VINH TRUONG, JESSICA DAVALOS, and REALSTONE ADVISORS & ASSOCIATES, LLC have no documents that show (a) the Deed of Trust Loan was a valid, arms-length transaction loan; (b) money was disbursed as described in the Deed of Trust Loan; and (c) money was paid to Defendant THE ACOSTA FAMILY TRUST, VINH TRUONG, TRUSTEE pursuant to the Deed of Trust Loan. The Deed of Trust Loan was a sham and fraudulently recorded to put a lien on Plaintiff's Property.

23. Once Defendant VINH TRUONG fraudulently acquired title to the Property through the Trustee Deed, the Property was then conveyed several more times, each time to an entity or trust owned or controlled by Defendant VINH TRUONG. Said conveyances are as follows:

03/27/2005 - Defendant THE ACOSTA FAMILY TRUST, VINH TRUONG, TRUSTEE pledges the Property as collateral under a \$40,000.00 Deed of Trust agreement with Defendant REALSTONE ADVISORS & ASSOCIATES, LLC, a Texas limited liability company. Defendant VINH TRUONG signed on behalf of Defendant THE ACOSTA FAMILY TRUST, VINH TRUONG, TRUSTEE. Elizabeth Nguyen – Defendant Vinh Truong's wife at the time - is listed as trustee for Defendant REALSTONE ADVISORS & ASSOCIATES, LLC, and Defendant JESSICA DAVALOS is listed as the notary to the Deed of Trust;

03/09/2007 – Defendant THE ACOSTA FAMILY TRUST, VINH TRUONG, TRUSTEE, conveys the Property to Defendant COUNTRYWIDE ASSET MANAGEMENT, LLC, a

Nevada limited liability company. Defendant VINH TRUONG signed on behalf of Defendant THE ACOSTA FAMILY TRUST. Vinh Truong was a Director of Defendant COUNTRYWIDE ASSET MANAGEMENT, LLC.

04/18/2007 – Defendant COUNTRYWIDE ASSET MANAGEMENT, LLC, a Nevada limited liability company, conveys the Property to Defendant PREFORECLOSURE SPECIALIST, LLC, a Texas limited liability company. Defendant VINH TRUONG signed on behalf of COUNTRYWIDE ASSET MANAGEMENT, LLC as Director of the company. Defendant Vinh Truong’s mother – Diem Phan – was Vice President of Defendant PREFORECLOSURE SPECIALIST, LLC.

01/23/2009 – Defendant PREFORECLOSURE SPECIALIST, LLC, a Texas limited liability company conveys the Property to Defendant THE WESTCREST SPECIALIST TRUST, QUANG V. TRUONG, TRUSTEE. Defendant VINH TRUONG has testified under oath that he is one and the same as QUANG V. TRUONG. The deed was signed by DIEM PHAN on behalf of Defendant PREFORECLOSURE SPECIALIST, LLC. Defendant VINH TRUONG has testified that DIEM PHAN is the mother of Defendant VINH TRUONG; and

11/09/2016 – Defendant THE WESTCREST SPECIALIST TRUST, QUANG V. TRUONG, TRUSTEE conveys the Property via Warranty Deed with Vendor’s Lien to Defendant PECHUA INC., a Nevada corporation (the “**Pechua Deed**”). Defendant VINH TRUONG a/k/a QUANG V. TRUONG executed the Pechua Deed on behalf of Defendant THE WESTCREST SPECIALIST TRUST, QUANG V. TRUONG, TRUSTEE. The Pechua Deed includes a \$50,000.00 loan to Defendant Pechua, allegedly an owner-financed consideration that is part of the sale price. Notably, Defendant THE WESTCREST SPECIALIST TRUST, QUANG V. TRUONG, TRUSTEE did not execute

a deed of trust lien in favor of Defendant Pechua to secure the owner-financing recital found in the Pechua Deed. Defendant Vinh Truong is Vice President of Defendant PECHUA.

24. Since Defendant THE ACOSTA FAMILY TRUST, VINH TRUONG, TRUSTEE acquired its title under a fraudulent deed, Defendant THE ACOSTA FAMILY TRUST, VINH TRUONG, TRUSTEE cannot then pass valid title to Defendant COUNTRYWIDE ASSET MANAGEMENT, LLC, or any of the subsequent Defendant grantees of record.

25. Plaintiffs continue to exclusively reside on the Property to the exclusion of all others and pay their monthly Loan amount plus escrow for ad valorem taxes and property insurance. Defendants, collectively, have never paid one penny toward the Loan, ad valorem taxes on the Property, or insurance for the Property.

26. On May 30, 2023, Defendant Pechua hired a different counsel than the one representing them in this lawsuit to send Plaintiffs a notice to vacate the Property. This was the first time any person or entity has made demand for possession of the Property. After a response to their demand from Plaintiffs, Defendant Pechua did not attempt to evict Plaintiffs.

Damages from Breach of Civil Practice & Remedies Code § 12.002

27. The foregoing paragraphs are incorporated herein by reference.

28. Defendants VINH TRUONG and JESSICA DAVALOS are liable to PLAINTIFFS under Civil Practice & Remedies Code § 12.002 as Defendants made, presented, or used a document with knowledge that it was forged or fraudulent, with intent to the document be recorded to give legal effect, and with intent to cause Plaintiffs to suffer.

29. Plaintiffs never agreed to convey the Property to Defendant VINH TRUONG. Defendant VINH TRUONG, with help from Defendant JESSICA DAVALOS, presented a fraudulent or forged Trustee Deed for recording with the intent to deprive Plaintiffs of their use

and ownership of the Property. The fraudulent or forged deed stole title to the Property from Plaintiffs and conveyed title to a trust that Defendant Vinh Truong controlled and that Defendant Jessica Davalos was a beneficiary of.

Suit to Quiet Title

30. Plaintiffs seek a judgment from the Court removing Defendants' cloud on Plaintiffs' title, specifically including but not limited to the removal of (a) the Trustee Deed and all subsequent deeds; (b) the Deed of Trust Loan; and (c) the lien found in the Pechua Deed.

Declaratory Relief

31. The foregoing paragraphs are incorporated herein by reference.

32. Pursuant to Texas Remedies and Civil Practice Code 37.001 et seq., Plaintiffs request this Court to declare and construe that Plaintiffs have title to and a fee simple interest in the Property based on its adverse possession of the Property under the 5-year limitation period, 10-year limitation period, and 25-year limitations period, as Plaintiffs hold title under a duly registered deed, have paid the taxes on the Property annually, and have cultivated, used, and enjoyed the Property for more than twenty-five (25) years before the filing of this lawsuit.

33. Pursuant to Texas Remedies and Civil Practice Code 37.001 et seq., Plaintiffs request this Court to declare and construe that: (a) the March 9, 2007 conveyance to Defendant THE ACOSTA FAMILY TRUST, VINH TRUONG, TRUSTEE was fraudulent and is null, void, and no longer in effect; (b) that all subsequent transfers and liens of the Property created by Defendants are null, void, and no longer in effect due to the forgery; and (c) Plaintiffs have valid and good title to the Property.

Conspiracy

34. The foregoing paragraphs are incorporated herein by reference.

35. Defendants VINH TRUONG and JESSICA DAVALOS conspired together to

accomplish the course of action of stealing Plaintiffs' title to the Property without the Plaintiffs' knowledge or consent. Defendants VINH TRUONG and JESSICA DAVALOS had a meeting of the minds on their course of action, and took unlawful, over acts in recording the fraudulent Trustee Deed in pursuance of such course of action. Plaintiffs suffered damages as a proximate result of Defendants VINH TRUONG and JESSICA DAVALOS' actions.

Discovery Rule and Tolling

36. Plaintiffs assert all applicable state statutory, common law, and contractual rights and theories related to the tolling and/or extension of any applicable statute of limitations, including equitable tolling, estoppel, delayed discovery, discovery rule, and/or fraudulent concealment.

Attorney's Fees

37. The foregoing paragraphs are incorporated herein by reference.

38. Pursuant to Texas Remedies and Civil Practice Code 37.009 et seq., Plaintiffs request this Court to award costs and reasonable and necessary attorney fees, as both are equitable and just given Defendants actions requiring Plaintiffs having to bring this action for declaratory relief.

Conditions Precedent

39. All conditions precedent have occurred, been performed, or been waived.

Prayer for Relief

WHEREFORE, Plaintiffs MANUEL A. ACOSTA and ROSARIO A. ACOSTA pray that Defendants PECHUA, a Nevada corporation; THE ACOSTA FAMILY TRUST with VINH TRUONG, TRUSTEE; COUNTRYWIDE ASSET MANAGEMENT, LLC, a Nevada Corporation; PREFORECLOSURE SPECIALIST, LLC, a Texas corporation; THE WESTCREST SPECIALIST TRUST, QUANG V. TRUONG, TRUSTEE; VINH QUANG TRUONG a/k/a QUANG V.

TRUONG, individually; and JESSICA DAVALOS, individually, be cited to appear and answer, and that on final disposition hereof the Plaintiffs have judgment against Defendants PECHUA, a Nevada corporation; THE ACOSTA FAMILY TRUST with VINH TRUONG, TRUSTEE; COUNTRYWIDE ASSET MANAGEMENT, LLC, a Nevada Corporation; PREFORECLOSURE SPECIALIST, LLC, a Texas corporation; THE WESTCREST SPECIALIST TRUST, QUANG V. TRUONG, TRUSTEE, VINH QUANG TRUONG a/k/a QUANG V. TRUONG, individually; and JESSICA DAVALOS, individually, as follows:

1. Damages against Defendants VINH TRUONG and/or JESSICA DAVALOS their breach of Civil Practice & Remedies Code § 12.002;
2. Damages against Defendants VINH TRUONG and JESSICA DAVALOS for civil conspiracy related from breach of Civil Practice & Remedies Code § 12.002;
3. Declaratory judgment declaring that Plaintiffs, by adverse possession, have acquired title to and a fee simple interest in the Property and quieting title into Plaintiffs' names;
4. Declaratory judgment declaring that (a) Defendant PECHUA INC. is divested of any and all interest it may have in the Property; (b) Defendant REALSTONE ADVISORS & ASSOCIATES, LLC, a Texas limited liability company's Deed of Trust Loan is invalid and does not attach to the Property; and (c) Defendant THE WESTCREST SPECIALIST TRUST, QUANG V. TRUONG, TRUSTEE's vendor's lien and all other liens related to its conveyance of the Property to Defendant PECHUA, a Nevada corporation, is invalid and does not attach to the Property;
4. Reasonable and necessary attorney's fees;
5. Costs of court; and

6. For such other and further relief to which Plaintiffs may show themselves justly entitled.

Respectfully submitted,

TED A. COX, P.C.

/s/ Andrew Wheeler

TED A. COX, # 04956480

ANDREW WHEELER, # 20499577

Attorneys for Plaintiffs

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CERTIFICATE OF SERVICE

I hereby certify that I have this 18th day of December, 2023, served a true and correct copy of the foregoing upon:

Jeffrey C. Jackson

JEFFREY JACKSON & ASSOCIATES, PLLC

2500 E. TC Jester, Suite 285

Houston, Texas 77008

Telephone: 713-861-8833

E-mail: jeff@jjacksonllp.com

Via E-Service, E-Mail and/or Facsimile

/s/Andrew Wheeler

ANDREW WHEELER

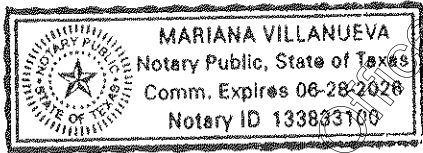
THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

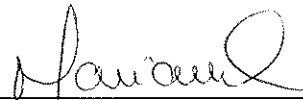
BEFORE ME, the undersigned authority, on this day personally appeared MANUEL A. ACOSTA who, after being by me duly sworn, states on oath that:

1. He is one of the Plaintiff's in this case and is duly qualified and authorized to make this Affidavit.
2. He has read the above and foregoing Plaintiff's Seventh Amended Petition, and that every statement therein is within his knowledge true and correct.


MANUEL A. ACOSTA

SWORN TO AND SUBSCRIBED TO BEFORE ME on this 17th day of November, 2023.




Notary Public in and for the State of Texas

Unofficial Copy

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Jennifer Camp on behalf of Ted Cox
Bar No. 04956480
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Envelope ID: 82685013
Filing Code Description: Amended Filing
Filing Description: Plaintiffs' Seventh Amended Petition
Status as of 12/18/2023 4:28 PM CST

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