



Bob Aaron bob@aaron.ca

April 13, 2002

## Fraudulent title transfer takes costly toll

Owner, title insurance company out money

When Isabel Simoes went with her husband, Laurenio, on a family visit in Portugal in the fall of 2000, she had no idea it would be the beginning of a nightmare that would hang over her family and their Mississauga home for the next 18 months.

After the smoke finally cleared, a title insurance company was out of pocket \$851,000 in claims it had paid, and Isabel Simoes found herself saddled with an \$11,000 legal bill from the lawyers for her mortgage company.

During the Simoes' visit to Portugal, Laurenio Simoes died suddenly, leaving Isabel with a home she could no longer afford. Laurenio, 63, was the sole breadwinner, and with mortgage payments of \$4,000 a month, Isabel was forced to put the property at 2016 Mississauga Rd. on the market.

Just before Christmas, the family's real estate agent got a call from a prospective purchaser. He gave his name as Dante Lettieri and asked if his bank could send over an appraiser to evaluate the house for mortgage purposes. Permission was given, the appraisal was done.

Nothing more was heard from Lettieri until the Simoes' family lawyer tried to transfer the title of the property to Isabel following her husband's death. On checking at the Brampton Land Registry Office, he discovered that in January, 2001, a deed to the property was registered transferring ownership to Dante Lettieri. The deed appeared to have been signed in January by Isabel Simoes and her husband Laurenio, who had died in Portugal four months earlier.

The purchaser declared the purchase price as \$400,000 and paid land transfer tax on that amount.

The Simoes family had never heard of Dante Lettieri, and knew nothing about the fraudulent transfer or the fact that a forged discharge of the Maple Trust mortgage on their house had been registered.

Several weeks later, a man who called himself Dante Lettieri met with a Toronto lawyer in Rome, Italy, to sign new mortgage documents in favour of Home Trust.

Three days later, Home Trust wrote a \$350,000 cheque to Lettieri as proceeds of the new first mortgage. The valuation was presumably based on the \$400,000 declared purchase price, and the appraisal done in December.

As evidence of his identity, the person using the name Dante Lettieri presented an Ontario driver's licence in his name with his photograph on it.

While all this was going on, the real Dante Lettieri, unaware that his identity had been stolen, was going about his daily life from his home on Lauder Ave. in Toronto. Cheques were made out in his name from mortgage proceeds on the Simoes' house and another property at 84 Old Mill Rd., in Etobicoke, where the same fraud was carried out. The real Dante Lettieri never saw the cheques.

Even before the first payment was due on its mortgage, Home Trust was told by the Simoes family lawyer that the deed to Lettieri and the mortgage were forgeries. Maple Trust was also told that their mortgage had been fraudulently discharged.

Despite some initial disbelief, both mortgage lenders were astounded at the news of the fraud, and instructed their own lawyers to move into high gear to correct the situation.

Howard Reiningger and Paul Mazza of Turkstra, Mazza went to work for Maple Trust. Richard Horodyski of Gowlings in Hamilton not only represented Home Trust, but, according to Isabel's son Larry, was also very helpful to his mother.

Larry Simoes is in the insurance business. Since the family could not afford a lawyer, he began to do some research to determine what protection and remedies the family had following the fraud.

At the time all this was happening, Larry read one of my Title Page articles about title fraud and learned how the Durrani family in Scarborough was coping with a similar fraud. (The article, What if your house was sold out from under you? appeared Jan. 11, 2001, and is archived at <http://aaron.ca/columns/2001-01-11.htm>)

Stewart Title, who had insured the Home Trust mortgage, opened a file on this fraud. A small team of adjusters and investigators went to work, and the real Dante Lettieri was tracked down in Toronto. He was initially named as a defendant in a lawsuit by one of the lenders, but was released after he signed a sworn statement denying any knowledge of the situation.

As well, he bore no resemblance to the photograph on the driver's licence of the fraudster.

The investigations were completed in a few months, and Stewart Title stepped up to the plate for Home Trust the company that loaned "Lettieri" the money.

Wayne Lipton, vice-president of Stewart Title, told me last week that he signed a cheque for \$351,000 to Home Trust, whose mortgage was protected against fraud by a Stewart Title policy. (Although the mortgagee was insured with Stewart Title, the owners were not.)

Stewart Title also paid Home Trust \$500,000 on another mortgage fraud perpetrated at the same time by a person using Lettieri's name. Police are still looking for him.

With the Home Trust mortgage paid out and discharged by Stewart, Maple Trust went to court and obtained an order cancelling the fraudulent discharge and restoring the validity of its mortgage, but not the title of Isabel Simoes.

With Lettieri still shown on title as owner, Maple Trust commenced what Larry Simoes calls a "friendly power of sale" in which the Simoes family allowed the mortgagee to show and eventually sell the property on the understanding that any surplus would be paid to Isabel.

When the house was sold, Isabel quietly moved out, and Maple Trust got its money from the sale proceeds. There was a surplus of \$52,000, but Maple Trust's lawyers deducted their \$11,000 legal fee before they paid Isabel the difference.

"The Land Titles Act protects the banks and trust companies for their own mistakes, while the land owners suffer," Larry Simoes said.

"The lawyers become rich, the banks get their money back from someone, while the land owners hopefully get their deed and their lives back.

"Meanwhile, the fraudsters get away with millions of dollars and if they get caught, they go to jail for only a few years. It just does not seem right."

---

*Bob Aaron is a Toronto real estate lawyer. [www.aaron.ca](http://www.aaron.ca) ©Aaron & Aaron. All Rights Reserved.*