

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
February 22, 2006 Session

**LOST MOUNTAIN DEVELOPMENT CO. v. RUFUS KING v.
MATTHEW B. KEZAR, ET AL.**

**Appeal from the Chancery Court for Franklin County
No. 16,818 Jeffrey F. Stewart, Chancellor**

No. M2004-02663-COA-R3-CV - Filed on December 19, 2006

WILLIAM B. CAIN, J., concurring.

I concur in the opinion of the Court and write separately in order to re-emphasize and re-affirm the sound rules of law stated in *Holt v. Citizen Central Bank*, 688 S.W.2d 414 (Tenn.1984). Prior to the decision of the Supreme Court in *Holt*, an innocent purchaser at a foreclosure sale had constantly to look back over his shoulder for fear that someone would challenge the validity of the foreclosure sale in equity under the “shock the conscience of the court” standard. *Holt* makes it clear that, in the absence of misconduct or fraud, a purchaser at a foreclosure sale where the property brings less than true value is free from a constant cloud upon his title.

The case at bar has nothing to do with a foreclosure sale but is limited to disputes between the original parties to a mortgage or deed of trust and their privies. We are dealing here with deficiency judgment that does not affect the title to the property involved in the foreclosure.

WILLIAM B. CAIN, JUDGE