

A man conveyed a large tract of land to a buyer by a warranty deed. The buyer recorded the deed four days later. After the conveyance but prior to the buyer's recording of the deed, a creditor properly filed a judgment against the man.

A statute in the jurisdiction provides: "Any judgment properly filed shall, for ten years from filing, be a lien on the real property then owned or subsequently acquired by any person against whom the judgment is rendered."

The recording act of the jurisdiction provides: "No conveyance or mortgage of real property shall be good against subsequent purchasers for value and without notice unless the same be recorded according to law."

The recording act has no provision for a grace period.

The creditor joined both the man and the buyer in an appropriate action to foreclose her judgment lien against the land.

If the creditor is unsuccessful, what will be the reason?

- A. Any deed is superior to a judgment lien.
- B. Four days is not an unreasonable delay in recording a deed.
- C. The creditor is not a purchaser for value.
- D. The man's warranty of title to the buyer defeats the creditor's claim.

Explanation:

Payment of value

(bona fide purchaser)

Value	Release of existing debt Substantial amount not grossly inadequate in relation to property interest's value
No value	Security for existing debt Nominal payment (eg, \$1) Recital of consideration in deed Gift, devise, or inheritance

Recording acts are used to evaluate the priority of competing property interests. A **notice act** (as seen here) protects only subsequent purchasers for value who lack **notice** of prior interests in land. **Judgment creditors** are **not purchasers for value** since the attachment of a judgment lien to a debtor's property is merely **security for a preexisting debt** (ie, no new value has been paid). Therefore, judgment creditors are not protected under the notice act,* and the creditor here will be unsuccessful in her foreclosure action.

*However, some recording acts now expressly protect judgment creditors by their terms.

(Choice A) It is untrue that any deed is superior to a judgment lien. Had the creditor's judgment lien been filed before the man conveyed the land to the buyer, it would have been superior to the buyer's deed.

(Choice B) When, as here, a recording act does not have a grace period, a purchaser must record immediately to prevent a subsequent purchaser from obtaining a superior interest in the property. Whether a delay in recording is reasonable is not taken into consideration.

(Choice D) A warranty deed does not defeat a competing interest in land, such as that held by a judgment creditor. Instead, a warranty deed merely allows a grantee to sue the grantor in the event that the competing interest results in a grantor's breach of a **warranty** under the deed.

Educational objective:

Judgment creditors are not purchasers for value since the attachment of a judgment lien to a debtor's property is merely security for a preexisting debt—not payment of value.

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