

**BOISE, MONDAY, JUNE 4, 2018 AT 11:10 A.M.**

**IN THE SUPREME COURT OF THE STATE OF IDAHO**

**GENESIS GOLF BUILDERS, INC., formerly )  
known as National Golf Builders, Inc., a )  
Nevada corporation, )**

**Plaintiff, )**

**v. )**

**PEND OREILLE BONNER )  
DEVELOPMENT, LLC, a Nevada limited )  
liability company, et al., )**

**Defendant-Third Party Defendant. )**

**Docket No. 44585**

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**VALIANT IDAHO, LLC, an Idaho limited )  
liability company, )**

**Third Party Plaintiff-Cross )  
Claimant-Respondent, )**

**v. )**

**VP INCORPORATED, an Idaho )  
corporation, )**

**Defendant-Cross Defendant-Appellant. )**

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Appeal from the District Court of the First Judicial District, State of Idaho,  
Bonner County. Hon. Barbara A. Buchanan, District Judge.

James, Vernon, & Weeks, P.A., Couer d' Alene, for appellant.

McConnell Wagner Sykes & Stacey, Boise, for respondent.

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This case arises from a failed golf course development project in Bonner County known as the "Idaho Club" undertaken by Pend Oreille Bonner Development, LLC ("POBD"). POBD took out several loans to finance the development of the Idaho Club and subsequently defaulted on them, failed to pay mechanic and materialmen for their services, and failed to pay Bonner County real property taxes. On October 13, 2009, Genesis Golf Builders, Inc. ("Genesis Golf")

filed a complaint, in part, alleging breach of contract and sought to foreclose on its mechanic's and materialman's liens against POBD's property interest in the Idaho Club. In this complaint, Genesis Golf also named seventeen other individuals and entities as defendants that may have property interests in the Idaho Club.

During the course of this litigation, Valiant Idaho, LLC ("Valiant") was assigned three promissory notes with POBD that were secured by three mortgages that contained the Idaho Club as collateral. On January 20, 2015, Valiant moved for summary judgment seeking a judgment from the district court that its assigned mortgages had priority over any other defendant's property interest in the Idaho Club—including VP, Inc. ("VP"). The district court granted Valiant's motion for summary judgment. VP subsequently filed three motions for reconsideration—all of which were denied. VP appeals the grant of Valiant's motion for summary judgment and the denial of its motions for reconsideration. Valiant also filed a motion for summary judgment on the legal description of the property that secured its assigned mortgages, which the district court also granted. VP also appeals the grant of this motion for summary judgment.

The only substantive issue that survived summary judgment was whether POBD satisfied the promissory notes secured by Valiant's mortgages. After a four day court trial, the district court found that the promissory notes were not satisfied. On July 20, 2016, the district court entered a judgment awarding Valiant damages against POBD in the amount of \$21,485,212.26 for its breach of the promissory notes. The judgment further declared that Valiant's mortgages (that secured the promissory notes) had priority over any property interest claimed by VP. On August 22, 2016, Valiant was also awarded \$15,554.88 in costs against VP—\$12,174.26 of which were discretionary costs. VP appeals the award of discretionary costs.

On July 20, 2016, the district court also entered a decree of foreclosure ordering the sale of the real property secured by the Valiant mortgages to satisfy Valiant's judgment against POBD. The decree further specified that Valiant's mortgages had first priorities, and that it would be entitled to a credit bid of the amount secured by its mortgages at the sale of the real property by the Bonner County Sheriff. Section (aa) of the decree of foreclosure included language taken from the Valiant Mortgages. This section related to the rights and liabilities of tenants after a foreclosure sale. Valiant challenges the validity of Section (aa) of the decree of foreclosure on appeal.

VP operated the water and sewer systems located on the Idaho Club. During the pendency of appeal of this case, VP discontinued its water services to the Idaho Club. Pursuant to the Idaho Appellate Rules, the district court granted a temporary restraining order and injunction that required VP to continue to provide water services until Valiant could drill its own wells and create the necessary infrastructure to provide water services to the Idaho Club. The injunction also required Valiant to provide sewer services to VP until VP could create the infrastructure necessary to continue to provide services to other parcels. VP appeals the validity of the injunction.

