

DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

Esbin v. Erickson

987 So. 2d 198 (Fla. 3d DCA 2008) · No. No. 3D08-101 · Decided July 23, 2008

SUMMARY

The Florida Third District Court of Appeal affirmed a summary judgment holding that the appellants were not entitled to use a dock or related access easements because the dock lots had been separately transferred from the dwelling lots. The court concluded that the restrictive declaration did not prohibit separating the dock lots from the dwelling lots and that the dock lots, rather than the dwelling lots, were the dominant estates benefiting from the easements.

CASE DETAILS

COURT	District Court of Appeal of Florida, Third District
WRITING FOR THE COURT	Cortiñas, J.; Gersten, C.J.; Suarez, J.
JURISDICTION	Florida
DECIDED	July 23, 2008
DOCKET	No. 3D08-101
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an amended order granting summary judgment in actions for ejectment and quiet title concerning use of a dock and related access easements.
PRECEDENTIAL VALUE	Published Florida District Court of Appeal opinion
PARTIES	Richard Esbin, Denise Esbin, Eugene G. Kyle, III, Rachel R. Shelar, Jeffrey S. Shelar, Cynthia Feld v. Elfriede K. Erickson, Lois Kinney, Eileen Majowicz, Vincent M. Semedallas, Judith Ann Semedallas, Joseph H. Bates, Herbert Gautreaux

TOPICS

- easements
- covenants and restrictions
- title disputes
- ejectment
- quiet title

PRACTICE AREAS

- Real estate
- Property law
- Easements
- Restrictive covenants
- Appellate procedure

QUESTIONS PRESENTED

1. Whether the declaration of restrictive covenants required the dwelling lots to remain attached to their originally corresponding dock lots.
2. Whether appellants' dwelling lots were the dominant estates entitled to use the dock access easements.
3. Whether appellants were responsible for, or entitled to benefit from, the declaration's dock-maintenance provisions.

HOLDINGS

1. The declaration did not unambiguously prohibit the separate transfer of a dock lot from the dwelling lot with which it was originally paired.
2. The dock lots, not the dwelling lots, were the dominant estates, and the access easements transferred with the dock lots rather than with the dwelling lots.
3. Appellants were not entitled to use the dock because they purchased only their dwelling lots and did not own the corresponding dock lots or access easements.
4. The declaration's maintenance obligations for the dock applied to the dock-lot owners, not to appellants.

KEY QUOTATIONS

"It is settled by Florida case law that covenants are strictly construed in favor of the free and unrestricted use of property." (201)

"We cannot now, nearly two decades after their separation, undo those transfers and grant appellants rights and benefits they clearly did not purchase." (202)

FACTUAL BACKGROUND

The developer originally conveyed six dwelling lots together with six corresponding dock lots in a Monroe County subdivision. Before appellants purchased Lots 10-A and 10-B, the corresponding dock lots and their access easements had been transferred separately from the dwelling lots. Appellants nevertheless claimed that a recorded declaration of restrictive covenants required the dwelling lots and dock lots to remain paired and entitled them to use the dock and related easements. The court concluded that the declaration did not prohibit separate transfers and that appellants had not purchased the dock lots or easement rights.

PROCEDURAL HISTORY

Several appellees filed actions for ejectment and to quiet title after appellants asserted rights to use a dock and access easements in a residential development. Following cross-motions for summary judgment, the trial court entered an amended order determining that appellants were not entitled to use the dock or access easements. The Third District affirmed.

DISPOSITION

affirmed

CASES CITED

- Norwood-Norland Homeowners' Ass'n v. Dade County, 511 So. 2d 1009, 1014 (Fla. 3d DCA 1987)
- Moore v. Stevens, 90 Fla. 879, 106 So. 901 (1925)
- Burdine v. Sewell, 92 Fla. 375, 109 So. 648, 652 (1926)
- Behm v. Saeli, 560 So. 2d 431, 432 (Fla. 5th DCA 1990)

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