

DISTRICT OF COLUMBIA COURT OF APPEALS

George C. Papageorge v. Matt Banks, et al.

George C. Papageorge v. Matt Banks, 81 A.3d 311 (D.C. 2013) · No. 13-CV-333 · Decided December 19, 2013

SUMMARY

The District of Columbia Court of Appeals reversed summary judgment for Matt and Diane Banks in George Papageorge’s action seeking payment under an agreement concerning tenant rights, litigation expenses, and settlement proceeds. The court held that the agreement bore hallmarks of champerty but concluded that summary judgment was improper because Papageorge claimed an independent interest in the underlying dispute, including interests arising from assigned TOPA rights and prior expenditures. The case was remanded for further proceedings; judgment for Diane Banks was affirmed because she was not a party to the agreement.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Thompson, Associate Judge; Easterly, Associate Judge; Farrell, Senior Judge
JURISDICTION	District of Columbia
DECIDED	December 19, 2013
DOCKET	13-CV-333
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Papageorge appealed from the Superior Court's grant of summary judgment for Matt and Diane Banks on the ground that an agreement financing litigation was champertous and void, and from the denial of his motion for reconsideration.
STANDARD OF REVIEW	Summary judgment is reviewed de novo; denial of a motion for reconsideration is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published appellate opinion; precedential in the District of Columbia.
PARTIES	George C. Papageorge v. Matt Banks, Diane Banks

TOPICS

- contracts
- summary judgment
- landlord tenant
- real estate
- appellate procedure

PRACTICE AREAS

Contracts

Civil procedure

Real estate

Landlord-tenant

Appellate procedure

QUESTIONS PRESENTED

1. Whether the December 9, 2010 Agreement was necessarily champertous and unenforceable as a matter of law.
2. Whether Papageorge's claimed past expenditures, assigned TOPA rights, or asserted interest in protecting Banks's possessory and tenant rights could constitute an independent interest defeating champerty.
3. Whether the existence and reasonableness of Papageorge's asserted independent interest presented genuine issues of material fact precluding summary judgment.
4. Whether the trial court properly denied reconsideration and refused to consider the evidence concerning the settlement and subsequent federal ejectment litigation.

HOLDINGS

1. The Agreement bore the hallmarks of champerty because it contemplated financing a wrongful-eviction suit at Papageorge's expense in exchange for a substantial share of the proceeds, but the Agreement was not necessarily champertous if Papageorge had an independent legal interest in the litigation or subject matter.
2. Past expenditures for rent and litigation relating to the property could potentially provide Papageorge an independent interest in Banks's claims and therefore could defeat a finding of champerty.
3. It would not have been unreasonable for Papageorge to believe that Banks needed to be restored to possession for his TOPA rights to be triggered and that, without restoration, Papageorge's assigned TOPA rights were in jeopardy.
4. Banks v. ESB did not conclusively establish Banks's continuing possessory interest or eliminate the need for further litigation concerning possession and tenant rights.
5. Summary judgment for Matt Banks was improper because whether Papageorge honestly and reasonably believed that he had an independent interest in the property, Banks's wrongful-eviction claim, or the expectant TOPA rights was a disputed factual issue.

KEY QUOTATIONS

“Unless an exception applies, an agreement to finance litigation at one’s own expense in exchange for a share of the proceeds is champertous where it is made for the purpose of stirring up and inducing litigation which otherwise would not be commenced.”

“In sum, on the present record, it appears that Papageorge could reasonably have believed that he had an independent interest in the property, in Matt Banks’s prospective claim for wrongful eviction, and in protecting Banks’s expectant TOPA rights, such that Papageorge’s agreement to finance litigation to protect these interests was not champertous.”

FACTUAL BACKGROUND

Matt Banks occupied a rental unit at property later acquired by Eastern Savings Bank through foreclosure and asserted tenant and Tenant Opportunity to Purchase Act rights. Banks and Papageorge entered agreements assigning or affirming the assignment of Banks's tenant and TOPA rights and later agreed that Papageorge would finance litigation concerning Banks's tenant rights in exchange for reimbursement of expenses and a share of any recovery. After the Bankses received \$75,000 from a settlement with Eastern Savings Bank and allegedly failed to pay Papageorge under the agreement, Papageorge sued to recover his share.

PROCEDURAL HISTORY

Papageorge sued the Bankses to recover money allegedly owed under the December 9, 2010 Agreement. The Superior Court considered materials outside the complaint, treated the Bankses' motion to dismiss or alternatively for summary judgment as a motion for summary judgment, and entered judgment for the Bankses, concluding that the Agreement was champertous and void in its entirety. The court denied reconsideration. The Court of Appeals affirmed the judgment for Diane Banks, reversed the summary judgment for Matt Banks, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings on Papageorge's claim against Matt Banks, including determination of whether Papageorge honestly and reasonably believed that he had an independent interest sufficient to defeat champerty. The judgment for Diane Banks was affirmed.

CASES CITED

- In re Primus, 436 U.S. 412, 424 n.15 (1978)
- Banks v. ESB, 8 A.3d 1239, 1241, 1243 (D.C. 2010)
- Pappas v. ESB, 911 A.2d 1230, 1232 & n.1 (D.C. 2006)
- ESB v. Pappas, 829 A.2d 953 (D.C. 2003)
- Administrator of Veterans Affairs v. Valentine, 490 A.2d 1165 (D.C. 1985)
- Mitchell v. ESB, 890 F. Supp. 2d 104 (D.D.C. 2012)
- Design for Bus. Interiors, Inc. v. Hersons's, Inc., 659 F. Supp. 1103, 1107 (D.D.C. 1986)
- Marshall v. Bickel, 445 A.2d 606, 608-09 (D.C. 1982)
- In re Columbia Hosp. for Women Med. Ctr., Inc., 461 B.R. 648, 677-78 (Bankr. D.D.C. 2011)
- Graham v. R.R. Co., 102 U.S. 148, 156 (1880)
- Van Wyck, 4 App. D.C. 294, 319-20 (D.C. 1894)
- Smith v. Hartsell, 63 S.E. 172, 173-75 (N.C. 1908)
- Thallhimer v. Brinckerhoff, 3 Cow. 623, 647-49 (N.Y. 1824)
- Lewis v. Broun, 14 S.E. 444, 445 (W. Va. 1892)

- Gilman, Son & Co. v. Jones, 5 So. 785, 787 (Ala. 1889)
- Sampliner v. Motion Picture Patents Co., 254 U.S. 233, 239-40 (1920)
- Gibson v. Gillespie, 152 A. 589, 593 (Del. Super. Ct. 1928)
- Allman v. Snyder, 888 A.2d 1161, 1170 (D.C. 2005)
- Schwartz v. Certified Mgmt. Corp., 539 N.Y.S.2d 332, 333 (N.Y. App. Div. 1989)
- Hohensee v. Manchester, 102 A.2d 461, 462 (D.C. 1954)
- Ackerman v. Abbott, 978 A.2d 1250, 1254 (D.C. 2009)
- Douglas v. Lyles, 841 A.2d 1, 4 (D.C. 2004)
- Columbian Carbon Co. v. Kight, 114 A.2d 28, 32 (Md. 1955)
- Perry v. Sera, 623 A.2d 1210, 1217 (D.C. 1993)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/district-of-columbia-district-of-columbia-court-of-appeals/2013/george-c-papageorge-v-matt-banks-et-al-1vt7a5c0>