SUPREME COURT OF MISSISSIPPI

Carter v. Citigroup Inc.

938 So. 2d 809 (Miss. 2006) · No. No. 2005-CA-00039-SCT · Decided July 20, 2006

SUMMARY

The Supreme Court of Mississippi affirmed summary judgment for the defendants in claims arising from the sale of credit life insurance with mortgage loans. The court held that the plaintiffs' claims, including breach of fiduciary duty, conspiracy, negligent misrepresentation, and negligent supervision, were subject to Mississippi's three-year statute of limitations and accrued when the loan documents were executed. The court rejected the plaintiffs' arguments that alleged nondisclosures tolled the limitations period.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Easley, Justice; Cobb, P.J.; Easley, J.; Dickinson, J.
JURISDICTION	Mississippi
DECIDED	July 20, 2006
DOCKET	No. 2005-CA-00039-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from the circuit court's grant of summary judgment dismissing their claims against the defendants.
STANDARD OF REVIEW	De novo review applies to questions of law, including statute-of-limitations issues.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion; precedential.
PARTIES	Stacey Carter, Donnell Baylous, Bessie Y. Baylous, Jerry Harmon, Tina Harmon, Walter Henderson, Yumeka Henderson, Wannis D. Siddell, Delores Siddell v. Citigroup Inc., CitiFinancial Mortgage Company, Inc., Associates Financial Life Insurance Company, American Health and Life Insurance Company

TOPICS

statute of limitations · summary judgment · life insurance litigation · consumer protection · civil procedure

PRACTICE AREAS

insurance litigation · civil procedure · tort claims

QUESTIONS PRESENTED

1. Whether the plaintiffs' claims for breach of fiduciary duty, conspiracy, negligent misrepresentation, negligent supervision, and related claims were barred by Mississippi's three-year statute of limitations.
2. Whether alleged nondisclosure of insurance commissions or other information fraudulently concealed the causes of action and tolled the statute of limitations.
3. Whether the trial court properly granted summary judgment to the defendants.

HOLDINGS

1. Claims for breach of fiduciary duty, misrepresentation, conspiracy, and related claims for which no other limitations period applies are subject to Mississippi's three-year statute of limitations under Mississippi Code section 15-1-49.
2. Fraudulent concealment did not toll the statute of limitations because the plaintiffs failed to show an affirmative act designed to prevent discovery of their claims and failed to demonstrate due diligence.
3. Summary judgment for the defendants was proper because all of the plaintiffs' claims were filed after the three-year limitations period expired and were not tolled by fraudulent concealment.

KEY QUOTATIONS

> *"We find that the Plaintiffs' claims were governed by three-year statute of limitations and the claims accrued at the time the loan documents were executed."* (818)

> *"Merely alleging that the other side has complete control of [information] simply will not suffice."* (819)

> *"The record demonstrates a total lack of due diligence by the Plaintiffs."* (820)

FACTUAL BACKGROUND

The plaintiffs obtained mortgage loans from Southern Mortgage Company between 1997 and 1998 and purchased credit life insurance in connection with those loans. They alleged that Southern Mortgage breached fiduciary duties by inducing them to purchase overpriced credit life insurance and that the defendants conspired with Southern Mortgage or otherwise participated in related fiduciary, misrepresentation, licensing, commission, and supervision violations. The loan documents disclosed that the insurance was optional, stated its cost and other loan terms, and provided cancellation rights. The plaintiffs filed suit on August 7, 2002, more than three years after the loan closings, and generally acknowledged that they received but did not read the documents and were not prevented from doing so.

PROCEDURAL HISTORY

Fifteen plaintiffs filed suit in the Circuit Court of the Second Judicial District of Hinds County on August 7, 2002. Seven plaintiffs' claims were dismissed because they had agreed to arbitrate, and the remaining plaintiffs voluntarily dismissed claims against several defendants and one cause of action. The circuit court granted the defendants' motion for summary judgment, certified the judgment under Mississippi Rule of Civil Procedure 54(b), and dismissed all remaining claims as barred by the statute of limitations. The Mississippi Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Stephens v. Equitable Life Assurance Society, 850 So. 2d 78, 82-84 (Miss. 2003)
- Andrus v. Ellis, 887 So. 2d 175, 179-81 (Miss. 2004)
- Am. Bankers' Ins. Co. of Florida v. Wells, 819 So. 2d 1196, 1200 (Miss. 2001)
- Sanderson Farms Inc. v. Ballard, 917 So. 2d 783, 789-90 (Miss. 2005)
- Cherry v. Anthony, 501 So. 2d 416, 419 (Miss. 1987)
- Russell v. Performance Toyota, Inc., 826 So. 2d 719, 725 (Miss. 2002)
- Godfrey, Bassett & Kuykendall Architects, Ltd. v. Huntington Lumber & Supply Co., 584 So. 2d 1254, 1257 (Miss. 1991)
- Robinson v. Cobb, 763 So. 2d 883, 887 (Miss. 2000)
- Reich v. Jesco, Inc., 526 So. 2d 550, 552 (Miss. 1988)

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