

SUPREME COURT OF VERMONT

Brault v. Welch

196 Vt. 459 (2014) · No. 2013-189 · Decided May 16, 2014

SUMMARY

The Vermont Supreme Court affirmed judgment for Jeanne Welch in a dispute over the location and meaning of a deeded right-of-way to Lake Champlain. The court held that the phrase “southerly thereof” unambiguously placed the easement south of an existing block wall and rejected the plaintiffs’ proposed interpretation and unpled reformation theory. The court also upheld denial of the plaintiffs’ motion to alter or amend based on a survey that could have been presented at trial.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Skoglund, J.; Reiber, C.J.; Robinson, J.; Tomasi, Specially Assigned, J.; Morris, Specially Assigned, J.
JURISDICTION	Vermont
DECIDED	May 16, 2014
DOCKET	2013-189
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from a judgment for defendant following a bench trial in a declaratory judgment action concerning the location and scope of a deeded right-of-way. They also appealed the denial of their motion to alter or amend the judgment and to reopen the evidence to admit a survey.
STANDARD OF REVIEW	The existence of ambiguity in a deed is reviewed de novo. A motion to alter or amend is reviewed for abuse of discretion; reversal is warranted only when the trial court entirely withheld its discretion or exercised it for clearly untenable reasons or to a clearly untenable extent.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	James A. Brault, Elise D. Brault v. Jeanne E. Welch

TOPICS

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QUESTIONS PRESENTED

1. Whether the deed description of a five-foot right-of-way running along the existing block wall and southerly thereof was ambiguous.
2. Whether the court could reform the deed to place the easement north of the block wall despite the absence of a pleaded reformation claim and evidence of the original parties' agreement.
3. Whether the trial court abused its discretion by denying the motion to alter or amend, refusing to reopen the evidence to admit a post-trial survey, or ordering a new trial.

HOLDINGS

1. The deed language was unambiguous and placed the five-foot right-of-way south of the existing block wall. Because the language was unambiguous, it had to be enforced as written without resort to extrinsic evidence.
2. The court could not reform the deed on the record presented. Reformation was not pleaded, and even assuming the issue was tried by consent, the Braults failed to prove beyond a reasonable doubt a prior agreement that would establish the intended conveyance.
3. The trial court did not abuse its discretion by denying the Rule 59 motion, refusing to reopen the evidence to admit the post-trial survey, or declining to order a new trial.

KEY QUOTATIONS

“In interpreting deeds, the court must start with the language of the deed itself, and ambiguity does not result simply because the plain language leads to an unfavorable or implausible outcome.” (§ 13)

“A result so at odds with the actual language of a deed is rightly accomplished through the remedy of reformation.” (§ 14)

FACTUAL BACKGROUND

The Griffiths conveyed the property later acquired by the Braults to their son and daughter-in-law in 1978 with a five-foot right-of-way to Lake Champlain described as running along an existing block wall and southerly thereof. The Braults later acquired the property through foreclosure, while Welch acquired the adjoining property in 1981; Welch's deed did not mention the right-of-way. The parties disputed whether the easement lay north or south of the block wall, which had existed for many years and may have marked the boundary. The Braults produced no evidence concerning the original grantors' intent or the circumstances leading to the disputed language before trial.

PROCEDURAL HISTORY

The Braults sought a declaration that their deed granted them pedestrian lake access, related improvements, and seasonal structures over Welch's property. After a site visit and bench trial, the Superior Court found the deed language unambiguous, interpreted the right-of-way as lying south of the existing block wall, and entered judgment for Welch. The court denied the Braults' Rule 59 motion because the post-trial survey was not newly discovered or previously unavailable and would not change the result. The Vermont Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Thomas v. Farrell, 153 Vt. 12, 16, 568 A.2d 409, 411 (1989)
- Main St. Landing, LLC v. Lake St. Ass'n, 2006 VT 13, ¶ 7, 179 Vt. 583, 892 A.2d 931 (mem.)
- DeGraff v. Burnett, 2007 VT 95, ¶ 20, 182 Vt. 314, 939 A.2d 472
- Kipp v. Estate of Chips, 169 Vt. 102, 107, 732 A.2d 127, 131 (1999)
- Cassani v. Hale, 2010 VT 8, ¶¶ 17-19, 187 Vt. 336, 993 A.2d 422
- LaRock v. Hill, 131 Vt. 528, 530-31, 310 A.2d 124, 126 (1973)
- Wead v. St. Johnsbury & L.C.R. Co., 64 Vt. 52, 52-53, 24 A. 361, 362 (1892)
- Pitts v. Brown, 49 Vt. 86, 88-89 (1876)
- In re Woodstock Cmty. Hous. Trust, 2012 VT 87, ¶ 21, 192 Vt. 474, 60 A.3d 686
- Kilcullen v. Dery, 133 Vt. 140, 142, 334 A.2d 410, 411-12 (1975)
- Brueckner v. Norwich Univ., 169 Vt. 118, 132-33, 730 A.2d 1086, 1097 (1999)
- Rubin v. Sterling Enters., Inc., 164 Vt. 582, 588, 674 A.2d 782 (1996)