

SUPREME COURT OF APPEALS OF WEST VIRGINIA

M-B Ltd. Partnership v. Longacre

210 W. Va. 143 (2001) · Decided November 14, 2001

SUMMARY

The West Virginia Supreme Court of Appeals reviewed a summary judgment resolving a boundary-line dispute between adjacent landowners. The court held that conflicting surveyor opinions created genuine issues of material fact, reversed the judgment, and remanded for trial on the merits.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                         |
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| COURT                 | Supreme Court of Appeals of West Virginia                                                                                                                                                                                                                                                                               |
| WRITING FOR THE COURT | Per Curiam                                                                                                                                                                                                                                                                                                              |
| JURISDICTION          | West Virginia                                                                                                                                                                                                                                                                                                           |
| DECIDED               | November 14, 2001                                                                                                                                                                                                                                                                                                       |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                                                   |
| PROCEDURAL POSTURE    | The defendants appealed from a final order granting the plaintiff summary judgment in a boundary-line dispute.                                                                                                                                                                                                          |
| STANDARD OF REVIEW    | Summary judgment is reviewed de novo. Summary judgment is proper only when the record shows no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. At the summary-judgment stage, the circuit court may not weigh the evidence or determine the truth of the matter. |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                                                                                                                          |
| PARTIES               | Glenn Longacre, Wanda Longacre v. M-B Limited Partnership                                                                                                                                                                                                                                                               |

TOPICS

- title disputes
- real estate
- summary judgment
- standard of review
- appellate procedure

PRACTICE AREAS

- real estate
- civil procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether conflicting opinions and evidence from the parties' surveyors created genuine issues of material fact concerning the location and extent of the disputed boundary line.
2. Whether the circuit court improperly weighed the survey evidence and resolved factual disputes in granting summary judgment for M-B.

## HOLDINGS

1. Conflicting opinions from the parties' surveyors concerning the location and extent of the disputed boundary line created genuine issues of material fact requiring resolution at trial.
2. The circuit court erred by disregarding the Longacres' surveyors' opinions and granting summary judgment without explaining a legally sufficient basis for resolving the conflicting evidence.

## KEY QUOTATIONS

*“For the reasons set forth below, the final order is reversed, and this case is remanded to the circuit court for a trial on the merits.”* (210 W. Va. at 143)

*“Summary judgment is required when the record shows that “there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.””* (210 W. Va. at 145)

*“the circuit court’s function at the summary judgment stage is not to weigh the evidence and determine the truth of the matter, but is to determine whether there is a genuine issue for trial.”* (210 W. Va. at 146)

*“Clearly, the conflicting opinions of the surveyors for the parties with regard to the location and extent of the disputed boundary line created genuine issues of material fact that must be decided by a jury.”* (210 W. Va. at 146)

## FACTUAL BACKGROUND

The parties owned adjoining tracts on Thomas Mountain in Webster County, West Virginia. M-B claimed that the Longacres owned only 18 acres, or alternatively 5.27 acres, while the Longacres claimed ownership of 28 acres based on their chain of title and asserted adverse possession. The parties submitted conflicting surveyor affidavits and plats concerning the location and extent of the southern boundary line.

## PROCEDURAL HISTORY

M-B filed an action in the Circuit Court of Webster County in 1996 to settle the boundary and ownership of disputed acreage adjoining the Longacres' property. The circuit court initially denied M-B's summary-judgment motion, but after further discovery and a second motion, it granted summary judgment for M-B. The Supreme Court of Appeals reversed and remanded for a trial on the merits.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

The final order is reversed, and the case is remanded to the Circuit Court of Webster County for a trial on the merits.

#### **CASES CITED**

- Painter v. Peavy, 192 W. Va. 189, 451 S.E.2d 755 (1994)
- Aetna Casualty & Surety Co. v. Federal Insurance Co. of New York, 148 W. Va. 160, 133 S.E.2d 770 (1963)

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