

SUPREME COURT OF WASHINGTON

Riverview Community Group v. Spencer & Livingston

181 Wash. 2d 888 (2014) · Decided November 20, 2014

SUMMARY

The Washington Supreme Court held that an equitable servitude limiting land use may be implied from developers’ conduct, representations, and related writings, including a recorded plat, under equitable principles. The court also held that Riverview Community Group had organizational standing and that dismissal for failure to join individual homeowners was unwarranted. It reversed the dismissal and remanded for further proceedings concerning whether authorized parties burdened the property and what equitable or injunctive relief was appropriate.

CASE DETAILS

COURT	Supreme Court of Washington
WRITING FOR THE COURT	González, J.; Fairhurst, J.; McCloud, J.; Owens, J.; Stephens, J.; Wiggins, J.; J.M. Johnson, J. Pro Tem.
JURISDICTION	Washington
DECIDED	November 20, 2014
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Riverview sought equitable and injunctive relief to prevent redevelopment of a golf course into individual residential lots. The trial court dismissed the action under CR 12(b)(7) for failure to join indispensable parties and granted summary judgment for defendants on the issue whether an equitable servitude could be created by implication. The Court of Appeals reversed most of the standing and joinder rulings but affirmed summary judgment on the ground that requiring defendants to operate an unprofitable golf course would be inequitable. The Washington Supreme Court granted review.
STANDARD OF REVIEW	Summary judgment is reviewed de novo, with all inferences taken in favor of the nonmoving party. A CR 12(b)(7) dismissal for failure to join an indispensable party under CR 19 is reviewed for abuse of discretion, while underlying legal conclusions are reviewed de novo.
PRECEDENTIAL VALUE	Published Washington Supreme Court opinion; precedential

PARTIES

Riverview Community Group v. Spencer & Livingston, George Livingston, Sheila Livingston, S.O.S. LLC, other persons claiming an interest in the golf course property

TOPICS

real estate

equitable relief

injunctions

standing

civil procedure

PRACTICE AREAS

real estate

property remedies

civil procedure

QUESTIONS PRESENTED

1. Whether Riverview Community Group had organizational standing to seek equitable and injunctive relief on behalf of its members.
2. Whether the individual homeowners were real parties in interest or indispensable parties whose joinder was required under CR 17 and CR 19.
3. Whether Washington law permits an equitable servitude limiting the use of land to be created by implication, including through conduct, representations, and writings such as a recorded plat.
4. Whether summary judgment was proper on the ground that equitable relief requiring continued operation of the golf course would be inequitable.

HOLDINGS

1. Riverview had organizational standing to assert its members' interests because its members would otherwise have standing, the organization's purpose was germane to the dispute, and the requested equitable and injunctive relief did not require individual members to participate as parties.
2. The individual homeowners were not indispensable parties under CR 19 because Riverview sought only equitable and injunctive relief, the absent homeowners' interests would be adequately protected if Riverview prevailed, and no necessary injury to them was shown if the action failed.
3. Under Washington law, an equitable servitude limiting the use of land may be created by implication based on conduct, representations, and acts that would be unjust to repudiate, particularly when supported by a writing such as a recorded plat; the statute of frauds is not a bar to such equitable relief.
4. Summary judgment was improper because the record did not establish an adequate factual basis for concluding that the requested equitable relief would be inequitable.

KEY QUOTATIONS

"By its conduct and representations, the improvement company imposed on its remaining lots certain use restrictions which it may not now violate." (at 897)

"Taken together, we find that an equitable servitude may be implied." (at 898)

“Only if on remand Riverview establishes that someone with the power to encumber the golf course property did so will the question of an equitable remedy arise.” (at 900)

FACTUAL BACKGROUND

Spencer and Livingston developed the Deer Meadows Golf Course Complex and surrounding residential subdivisions in rural Lincoln County. The golf course was identified on a recorded plat, used in advertising, and promoted as an amenity intended to help sell nearby residential lots. After most lots were sold, Livingston closed the golf course and began platting it for residential development; homeowners formed Riverview Community Group based on their belief that representations by the developers promised the golf course would remain a permanent part of the community.

PROCEDURAL HISTORY

The trial court required Riverview to join additional property owners and then granted defendants summary judgment to obtain immediate appellate review. The Court of Appeals held that Riverview had organizational standing, that the individual landowners were not indispensable parties, and that Washington recognized equitable covenants, but affirmed the judgment based on the perceived inequity of requiring operation of a failing golf course. The Supreme Court affirmed those legal rulings, reversed the dismissal, and remanded for further proceedings because the record did not support the Court of Appeals' factual basis for denying relief.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court was directed to conduct further proceedings consistent with the opinion, including determining whether persons with the power to encumber the golf course property made representations sufficient to create an equitable servitude and, if so, the appropriate equitable and injunctive relief.

CASES CITED

- Anderson v. Akzo Nobel Coatings, Inc., 172 Wn.2d 593, 600, 260 P.3d 857 (2011)
- Mulcahy v. Farmers Ins. Co. of Wash., 152 Wn.2d 92, 98, 95 P.3d 313 (2004)
- Gildon v. Simon Prop. Grp., Inc., 158 Wn.2d 483, 493-95, 145 P.3d 1196 (2006)
- Equal Emp't Opportunity Comm'n v. Peabody W. Coal Co., 400 F.3d 774, 778 (9th Cir. 2005)
- Walker v. Munro, 124 Wn.2d 402, 419, 879 P.2d 920 (1994)
- Haberman v. Wash. Pub. Power Supply Sys., 109 Wn.2d 107, 138, 744 P.2d 1032, 750 P.2d 254 (1987)
- Five Corners Family Farmers v. State, 173 Wn.2d 296, 304, 268 P.3d 892 (2011)
- Int'l Ass'n of Firefighters, Local 1789 v. Spokane Airports, 146 Wn.2d 207, 213-14, 45 P.3d 186, 50 P.3d 618 (2002)
- Crosby v. Spokane County, 137 Wn.2d 296, 306-07, 971 P.2d 32 (1999)
- Auto. United Trades Org. v. State, 175 Wn.2d 214, 225, 285 P.3d 52 (2012)

- Johnson v. Mt. Baker Presbyterian Church, 113 Wash. 458, 194 P. 536 (1920)
- Hollis v. Garwall, Inc., 137 Wn.2d 683, 691-93, 974 P.2d 836 (1999)
- Thorstad v. Fed. Way Water & Sewer Dist., 73 Wn. App. 638, 870 P.2d 1046 (1994)
- 1515-1519 Lakeview Boulevard Condo. Ass'n v. Apt. Sales Corp., 146 Wn.2d 194, 204, 43 P.3d 1233 (2002)
- Mountain High Homeowners Ass'n v. J.L. Ward Co., 228 Or. App. 424, 209 P.3d 347 (2009)
- Proctor v. Huntington, 169 Wn.2d 491, 500-01, 238 P.3d 1117 (2010)
- Teamsters Local Union No. 117 v. Dep't of Corr., 145 Wn. App. 507, 512, 514, 187 P.3d 754 (2008)
- Pugh v. Evergreen Hosp. Med. Ctr., 177 Wn. App. 363, 366, 312 P.3d 665 (2013), review denied, 180 Wn.2d 1007 (2014)
- Warth v. Seldin, 422 U.S. 490, 500, 95 S. Ct. 2197, 45 L. Ed. 2d 343 (1975)
- Berg v. Hudesman, 115 Wn.2d 657, 801 P.2d 222 (1990)
- In re Estate of Wind, 27 Wn.2d 421, 426, 178 P.2d 731 (1947)