SUPREME COURT OF TEXAS

Arturo Flores v. Millennium Interests, Ltd.

Flores v. Millennium Interests, Ltd., 185 S.W.3d 427 (Tex. 2005) · No. No. 04-1003 · Decided September 30, 2005

SUMMARY

This is a dissenting opinion by Justice Scott Brister in a Texas Supreme Court case addressing three certified questions concerning statutory disclosures for property sold by contract for deed and related damages. The dissent argues that the statute required specific information in annual statements, that statutory liquidated damages constituted exemplary or punitive damages subject to Chapter 41 of the Texas Civil Practice and Remedies Code, and that all three certified questions should have been answered affirmatively.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Justice Scott Brister; Chief Justice Jefferson; Justice Green; Justice Brister
JURISDICTION	Texas
DECIDED	September 30, 2005
DOCKET	No. 04-1003
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court of Texas considered three questions certified by the United States Court of Appeals for the Fifth Circuit concerning statutory annual-statement disclosure requirements for contract-for-deed purchasers and the applicability of Chapter 41's limits on exemplary damages.
PRECEDENTIAL VALUE	Published Texas Supreme Court decision; the extracted text is a dissenting opinion and therefore is not binding authority.
PARTIES	Arturo Flores, et al. v. Millennium Interests, Ltd., et al.

TOPICS

contracts · real estate · statutory interpretation · liquidated damages · consumer protection

PRACTICE AREAS

real estate · contracts · consumer protection · remedies

QUESTIONS PRESENTED

1. Whether the annual-statement statute requires the seller's statement to contain each of the expressly listed statutory items.
2. Whether Chapter 41's substantive and procedural limits on exemplary damages apply to the statutory damages imposed for failure to provide the required annual statement.
3. Whether actual damages are required before the statutory damages may be recovered under Chapter 41, including whether statutory malice could satisfy that requirement for claims accruing before September 1, 2003.

KEY QUOTATIONS

> *"As a matter of law, the damages imposed here are "a penalty or by way of punishment," and Chapter 41 applies by its explicit terms."*

> *"The answer to all three certified questions should be "Yes"; because the Court concludes otherwise, I respectfully dissent."*

FACTUAL BACKGROUND

The dispute involved purchasers who acquired property under contracts for deed and alleged that sellers failed to provide annual statements containing information required by statute. The statute imposed daily statutory damages characterized as "liquidated damages" for noncompliance. The purchasers argued that Chapter 41 of the Texas Civil Practices and Remedies Code did not apply because the statutory damages were labeled liquidated rather than exemplary damages.

PROCEDURAL HISTORY

The case came to the Supreme Court of Texas on certified questions from the United States Court of Appeals for the Fifth Circuit. The majority answered the three questions "No," "No," and "Not applicable." Justice Brister dissented, contending that all three questions should have been answered "Yes."

DISPOSITION

other