

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Laura Goddard v. Tyler Hockman and Emily A. Hockman

Goddard · No. No. 20-0863 · Decided May 20, 2022

SUMMARY

The Supreme Court of Appeals of West Virginia reviewed a dispute concerning whether property purchased at a trustee's sale was subject to covenants, restrictions, and easements created after the deed of trust. The court held that the circuit court clearly erred in finding the purchasers were not bona fide purchasers and concluded that the trustee's sale extinguished the later covenants and restrictions. The judgment was reversed and remanded with directions.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                     |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Appeals of West Virginia                                                                                                                                                                                                                           |
| WRITING FOR THE COURT | Justice Wooton; Justice Armstead                                                                                                                                                                                                                                    |
| JURISDICTION          | West Virginia                                                                                                                                                                                                                                                       |
| DECIDED               | May 20, 2022                                                                                                                                                                                                                                                        |
| DOCKET                | No. 20-0863                                                                                                                                                                                                                                                         |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                               |
| PROCEDURAL POSTURE    | Petitioner appealed from a final judgment entered under West Virginia Rule of Civil Procedure 54(b), denying declaratory and quiet-title relief, granting respondents judgment on their counterclaim, and denying petitioner's Rule 59(e) motion to alter or amend. |
| STANDARD OF REVIEW    | The denial of declaratory relief is reviewed de novo, with factual determinations reviewed for clear error. Review of a Rule 59(e) motion to alter or amend uses the same standard applicable to the underlying judgment.                                           |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                                                                      |
| PARTIES               | Laura M. Goddard v. Tyler Hockman, Emily A. Hockman                                                                                                                                                                                                                 |

TOPICS

- foreclosure
- deeds
- recording acts
- easements
- declaratory judgment

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether the Stephens were bona fide purchasers at the trustee's sale and therefore acquired the remaining acreage free of covenants and restrictions recorded after the deed of trust.
2. Whether a reference to the subdivision's final plat in the trustee's notice of sale gave the Stephens notice sufficient to defeat bona fide-purchaser status.
3. Whether the lender's release of certain lots from the deed of trust implicitly incorporated the subdivision's common-area covenants and restrictions into the deed of trust.
4. Whether the common-scheme doctrine or unity rule gave respondents an enforceable easement or other interest in the common area.
5. What standard of review applies to the appeal from the denial of declaratory relief and the Rule 59(e) motion.

## HOLDINGS

1. An appeal from a declaratory judgment is reviewed de novo as to the legal ruling, with underlying factual determinations reviewed for clear error; review of a Rule 59(e) motion uses the standard applicable to the underlying judgment.
2. A bona fide purchaser at a regularly conducted trustee's sale under a recorded deed of trust takes the property free and clear of recorded contracts, covenants, and restrictions made by the grantor after execution of the deed of trust when neither the trustee nor beneficiary was a party to them.
3. The Stephens were bona fide purchasers of the remaining acreage; a single reference to the final plat in the trustee's notice of sale was insufficient to charge them with notice of the restrictions contained in the plat, its notes, or the declaration.
4. The lender's release of individual lots from the deed of trust did not implicitly incorporate the CIS, final plat, its notes, or the declaration into the deed of trust.
5. Respondents could not invoke the common-scheme doctrine or unity rule to obtain an easement or reinstate restrictions in the common area because their claimed rights did not exist before the trustee's sale and their deeds contained no language granting such rights.

## KEY QUOTATIONS

*“Accordingly, we further conclude that the trustee’s sale of the acreage to Mr. and Mrs. Stephens extinguished all prior covenants and restrictions that post-dated the execution of the deed of trust, and that their successor in interest, the petitioner, took the subject property free and clear of all such covenants and restrictions.”* (at 1)

*“We find that this single reference to the Final Plat is far too slender a reed on which to base a conclusion that Mr. and Mrs. Stephens were not bona fide purchasers.”* (at 17-18)

*“Therefore, the respondents cannot invoke equitable remedies for the purpose of reinstating rights they never had.”* (at 25)

## FACTUAL BACKGROUND

Wolverine Investments, LLC purchased an 81.6735-acre parent tract in 2005 and secured its purchase loans with a deed of trust in favor of Jefferson Security Bank. Wolverine later recorded subdivision documents, including a final plat and a declaration of covenants and restrictions, but never amended the deed of trust to reference them. After Wolverine defaulted, a trustee sold the remaining acreage, including the planned common area and an access road, to Brian and Sylvia Stephens; the trustee's deed did not reference the later subdivision restrictions. Goddard later acquired the acreage from the Stephens, while respondents acquired a subdivision lot from the bank and claimed an easement in the common area.

## PROCEDURAL HISTORY

Goddard sought a declaration that acreage purchased by her predecessors at a trustee's sale was free of covenants and restrictions recorded after the deed of trust was executed, and also sought to quiet title. The Jefferson County Circuit Court denied declaratory relief, ruled that respondents had an easement in the property, and certified its judgment for immediate appeal under Rule 54(b). The Supreme Court of Appeals reversed and remanded with directions to grant declaratory judgment to Goddard and dismiss respondents' counterclaim; proceedings on an unrelated count concerning firearm use were unaffected.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

The circuit court must enter an order granting declaratory judgment to petitioner and dismissing respondents' counterclaim. Count II, the quiet-title claim, is moot, and proceedings on Count III concerning alleged firearm-use violations are unaffected.

## CASES CITED

- Wickland v. American Travellers Life Insurance Co., 204 W. Va. 430, 513 S.E.2d 657
- Arnold v. Palmer, 224 W. Va. 495, 686 S.E.2d 725
- George v. Zinn, 57 W. Va. 15, 49 S.E. 904
- Carden v. Bush, 109 W. Va. 655, 155 S.E.2d 914
- Wallace v. St. Clair, 147 W. Va. 377, 127 S.E.2d 742
- Jubb v. Letterle, 185 W. Va. 239, 406 S.E.2d 465
- Cook v. Totten, 49 W. Va. 177, 38 S.E. 491
- Cox v. Amick, 195 W. Va. 608, 466 S.E.2d 459
- Hite v. Donnally, 85 W. Va. 640, 102 S.E.2d 478
- State v. McKinley, 234 W. Va. 143, 764 S.E.2d 303

- Lucas v. Fairbanks, 217 W. Va. 479, 618 S.E.2d 488
- Hartman v. Evans, 33 W. Va. 669, 18 S.E. 810
- Pocahontas Tanning Co. v. St. Lawrence Boom & Manufacturing Co., 63 W. Va. 685, 60 S.E. 890
- Burwell's Administrators v. Fauber, 21 Grat. 446
- Wolf v. Alpizar, 219 W. Va. 525, 637 S.E.2d 623
- Eagle Gas Co. v. Doran & Associates, Inc., 182 W. Va. 194, 387 S.E.2d 99
- Industrial Bank of Richmond v. Holland Furnace Co., 109 W. Va. 176, 153 S.E. 309
- Armstrong v. Stribling, 192 W. Va. 280, 452 S.E.2d 83
- Teays Farms Owners Association, Inc. v. Cottrill, 188 W. Va. 555, 425 S.E.2d 231

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