

CALIFORNIA COURT OF APPEAL, SECOND DISTRICT, DIVISION SEVEN

Ojavan Investors, Inc. v. California Coastal Com.

54 Cal. App. 4th 373 (Cal. Ct. App. 1997) · No. B089152 · Decided April 17, 1997

SUMMARY

The California Court of Appeal reviewed challenges to civil fines, a permanent injunction, summary adjudication, evidentiary rulings, discovery sanctions, and denial of a jury trial arising from violations of deed restrictions imposed as conditions of coastal development permits. The court held that the recorded restrictions ran with the land and bound the successor purchasers, and that the purchasers' separate transfers of restricted lots constituted development subject to liability under the California Coastal Act. The excerpt addresses the enforceability of the restrictions, statutory penalties, and related procedural rulings.

CASE DETAILS

COURT	California Court of Appeal, Second District, Division Seven
WRITING FOR THE COURT	Johnson, J.; Lillie, P.J.; Woods, J.
JURISDICTION	California
DECIDED	April 17, 1997
DOCKET	B089152
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs and cross-defendants appealed from a superior court judgment imposing civil fines and a permanent injunction for violations of deed restrictions associated with coastal development permits. They also challenged summary adjudication of Coastal Act liability, discovery sanctions, evidentiary exclusions, denial of a jury trial, and the permanent injunction and fines.
STANDARD OF REVIEW	De novo review applies to summary adjudication. Abuse of discretion applies to the form of injunctive relief and the amount of civil fines.
PRECEDENTIAL VALUE	Published in part; parts II, III, and IV of the Discussion were certified for nonpublication.

PARTIES

Ojavan Investors, Inc., Port Lemoire Corp., Sutton Properties, Inc., Sealubber, Inc., Pakid Holdings, Malek Agency Ltd., Quelimane Co., MTG Alliance Corp., Western Land Bank, Highland Group, Inc., P.U. Enterprise, Peter Bogart v. California Coastal Commission

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QUESTIONS PRESENTED

1. Whether summary adjudication of Coastal Act liability was proper based on recorded deed restrictions imposed on the property as conditions of prior coastal development permits.
2. Whether the Coastal Act and former Public Resources Code sections 30820 and 30821 authorized civil fines for successors who purchased and resold individual lots in violation of permit-related restrictions.
3. Whether purchasing and selling individual lots constituted development or a division of land subject to Coastal Act liability.
4. Whether the superior court abused its discretion by ordering rescission of the unlawful lot transfers through a permanent injunction.
5. Whether the civil fines were criminal, unconstitutional, excessive, or otherwise an abuse of discretion.
6. Whether the trial court's evidentiary, discovery-sanction, jury-trial, and related procedural rulings required reversal.

HOLDINGS

1. The recorded declarations of restrictions ran with the land and bound Ojavan Investors even though they were not parties to the original deed restrictions or coastal development permits.
2. Summary adjudication was properly granted because the recorded declarations and grant deeds established the restrictions, the purchases and sales of individual lots, and liability under the Coastal Act, while Ojavan Investors failed to establish a triable issue of material fact.
3. Former Public Resources Code sections 30820 and 30821 authorized civil fines for the permit-related violations at issue, even though the former statutes did not expressly use the term permit.
4. Ojavan Investors' purchases and sales of individual lots constituted development under Public Resources Code section 30106 because the transactions divided the recombined parcels and violated the declarations of restrictions.
5. The permanent injunction ordering rescission of the unlawful lot transfers was a permissible civil equitable remedy, not an unconstitutional forfeiture.

6. The civil fines were not criminal or unconstitutional, and the trial court did not abuse its discretion in setting their amounts.

KEY QUOTATIONS

“Given the crux of Ojavan I and the present appeal is the enforceability of the deed restrictions as to Ojavan Investors, the Ojavan I rulings are binding in the instant action.” (54 Cal. App. 4th at 384)

“Since Ojavan Investors' purchase and sale of individual lots resulted in splitting of the recombined lots, in violation of the declarations of restrictions required as a condition for the Commission's grant of the Leanse and Thorne permits, Ojavan Investors' activities clearly fell within the definition of section 30106.” (54 Cal. App. 4th at 387)

“Since the injunctive relief was intended to protect the public's interest in California's coastal areas, the remedy was civil in nature.” (54 Cal. App. 4th at 394)

“We hold the trial court did not abuse its discretion in setting the amount of civil fines under former sections 30820 and 30821.” (54 Cal. App. 4th at 398)

FACTUAL BACKGROUND

The California Coastal Commission conditioned coastal development permits for Malibu-area projects on a Transfer Development Credits program requiring 77 lots to be recombined into two parcels and subject to recorded, perpetual deed restrictions prohibiting division or separate alienation. Ojavan Investors purchased 54 of the deed-restricted lots and later sold 19 individually to third parties, despite the recorded restrictions. The Commission sought to undo the transfers and impose civil fines, and the trial court found 73 violations, ordered rescission of the sales, and imposed civil fines.

PROCEDURAL HISTORY

Ojavan Investors purchased and resold individual lots that were subject to recorded declarations requiring recombination and prohibiting separate alienation. The Commission filed a cross-complaint seeking injunctive, declaratory, civil-fine, exemplary-damage, and compensatory relief. The superior court granted summary adjudication on Coastal Act liability, imposed discovery sanctions and an alter-ego determination, excluded specified evidence, denied a jury trial on Coastal Act issues, and after a remedies trial entered a permanent injunction and civil fines totaling more than \$9.5 million. The Court of Appeal affirmed, and the California Supreme Court later denied review on July 9, 1997.

DISPOSITION

affirmed

CASES CITED

- Ojavan Investors, Inc. v. California Coastal Com., 26 Cal. App. 4th 516, 520, 526-527 (1994)
- Goddard v. Security Title Ins. & Guar. Co., 14 Cal. 2d 47, 52 (1939)
- Frommhamen v. Bd. of Supervisors, 197 Cal. App. 3d 1292, 1301 (1987)

- Safeco Insurance Co. v. Tholen, 117 Cal. App. 3d 685, 697 (1981)
- Stratton v. First Nat. Life Ins. Co., 210 Cal. App. 3d 1071, 1083 (1989)
- AARTS Productions, Inc. v. Crocker National Bank, 179 Cal. App. 3d 1061, 1064-1065 (1986)
- Loken v. Century 21-Award Properties, 36 Cal. App. 4th 263, 272-273 (1995)
- North Coast Business Park v. Nielsen Construction Co., 17 Cal. App. 4th 22, 28-31 (1993)
- In re Marriage of Ananeh-Firemping, 219 Cal. App. 3d 272, 278 (1990)
- County of Sacramento v. Lackner, 97 Cal. App. 3d 576, 591 (1979)
- East Bay Municipal Utility Dist. v. Department of Forestry & Fire Protection, 43 Cal. App. 4th 1113, 1125 (1996)
- Austin v. United States, 509 U.S. 602 (1993)
- Boyd v. United States, 116 U.S. 616 (1886)
- United States v. One 1985 Mercedes, 917 F.2d 415 (9th Cir. 1990)
- United States v. Jacobsen, 466 U.S. 109 (1984)
- Soldal v. Cook County, 506 U.S. 56 (1992)
- Mine Workers v. Bagwell, 512 U.S. 821 (1994)
- People ex rel. Mosk v. National Research Co. of Cal., 201 Cal. App. 2d 765, 775 (1962)
- Allen v. Stowell, 145 Cal. 666, 669 (1905)
- Birkenfeld v. City of Berkeley, 17 Cal. 3d 129, 161 (1976)
- State of California v. City and County of San Francisco, 94 Cal. App. 3d 522, 531-532 (1979)
- Hale v. Morgan, 22 Cal. 3d 388, 392, 398-399 (1978)
- People v. Djekich, 229 Cal. App. 3d 1213, 1223 n.9 (1991)
- Kinney v. Vaccari, 27 Cal. 3d 348, 356 (1980)