

SUPREME COURT OF SOUTH CAROLINA

Lawrence ex rel. Situated v. Gen. Panel Corp.

822 S.E.2d 800 · Decided January 4, 2019

SUMMARY

The South Carolina Court of Appeals answered a certified question concerning whether the 2005 amendments to South Carolina Code section 15-3-640 superseded Ocean Winds Corp. of Johns Island v. Lane regarding the date when the construction-defect statute of repose begins to run. The court held that the amendments did not supersede Ocean Winds and that substantial completion may occur when a specified portion of an improvement is complete and usable for its intended purpose, rather than necessarily upon issuance of a certificate of occupancy. A dissent would have treated issuance of a certificate of occupancy as a bright-line trigger for substantial completion.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Justice Few; Justice Kittredge; Justice James; Justice Hearn; Chief Justice Beatty
JURISDICTION	South Carolina
DECIDED	January 4, 2019
DISPOSITION	other
PROCEDURAL POSTURE	The Supreme Court of South Carolina answered a certified statutory-interpretation question from the United States District Court for the District of South Carolina concerning the accrual of the statute of repose for construction-defect claims.
STANDARD OF REVIEW	De novo statutory interpretation of a certified question
PRECEDENTIAL VALUE	Published state supreme court opinion; binding precedent in South Carolina
PARTIES	Mark Lawrence, ex rel. Situated v. General Panel Corporation

TOPICS

construction defects

construction law

statutory interpretation

legislative intent

legislative history

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the 2005 amendments to South Carolina Code section 15-3-640 superseded *Ocean Winds Corp. of Johns Island v. Lane*.
2. Whether a certificate of occupancy establishes the date of substantial completion in every action involving an improvement to real property.
3. Whether the statute of repose for defective improvements begins to run upon completion of a specified area or portion of an improvement when that portion can be used for its intended purpose, notwithstanding a later certificate of occupancy.

HOLDINGS

1. The 2005 amendments did not supersede *Ocean Winds Corp. of Johns Island v. Lane*.
2. A certificate of occupancy constitutes prima facie proof of substantial completion and supplies the latest date on which the statute of repose begins to run, but it does not establish the substantial-completion date in every case or eliminate the statutory definition applicable to a specified portion of an improvement.
3. The statute of repose for Lawrence's claims began to run when installation of the structural insulated panels was complete and the panels could serve their intended structural purpose, rather than when the home received its certificate of occupancy.

KEY QUOTATIONS

"We find, therefore, the Legislature did not intend the date of substantial completion to be the date of the issuance of a certificate of occupancy in all cases." (803)

"Under the revised version of section 15-3-640, the statute of repose begins to run at the latest on the date of the certificate of occupancy, even if there is ongoing work on any particular part of the project." (803)

"We answer the certified question, 'No, the 2005 amendments to section 15-3-640 of the South Carolina Code (Supp. 2018) did not supersede the Supreme Court of South Carolina's decision in Ocean Winds Corp. of Johns Island v. Lane, 347 S.C. 416, 556 S.E.2d 377 (2001).'" (803)

FACTUAL BACKGROUND

Lawrence constructed a home using structural insulated panels manufactured by General Panel Corporation. The panels were installed by March 2007, but the home was not completed until later, and Charleston County issued a certificate of occupancy on December 10, 2008. Lawrence filed suit on December 8, 2016, more than eight years after panel installation but less than eight years after issuance of the certificate of occupancy.

PROCEDURAL HISTORY

Lawrence sued General Panel in federal district court, alleging defective installation instructions for structural insulated panels caused water intrusion and structural damage to his home. General Panel moved for summary

judgment under South Carolina Code section 15-3-640, arguing that the claims were filed more than eight years after substantial completion of the panel installation. The federal district court certified to the South Carolina Supreme Court whether the 2005 amendments to section 15-3-640 superseded Ocean Winds.

DISPOSITION

other

CASES CITED

- Ocean Winds Corp. of Johns Island v. Lane, 347 S.C. 416, 556 S.E.2d 377 (2001)
- Florence Cty. Democratic Party v. Florence Cty. Republican Party, 398 S.C. 124, 727 S.E.2d 418 (2012)
- Hinton v. S.C. Dep't of Prob., Parole & Pardon Servs., 357 S.C. 327, 592 S.E.2d 335 (Ct. App. 2004)
- Fullbright v. Spinnaker Resorts, Inc., 420 S.C. 265, 802 S.E.2d 794 (2017)
- State v. Henkel, 413 S.C. 9, 774 S.E.2d 458 (2015)
- Wigfall v. Tideland Util., Inc., 354 S.C. 100, 580 S.E.2d 100 (2003)
- Broadhurst v. City of Myrtle Beach Election Comm'n, 342 S.C. 373, 537 S.E.2d 543 (2000)