

MISSOURI COURT OF APPEALS

Gage v. Gage

515 S.W.2d 793 (Mo. App. 1974) · Decided November 6, 1974

SUMMARY

The Missouri Court of Appeals affirmed a judgment denying rescission of a farm-sale contract and granting the buyer’s counterclaim for specific performance. The court held that the evidence supported the trial court’s finding that any alleged rescission by the buyer’s husband was not shown to have been authorized or ratified by the buyer, and the judgment was not clearly erroneous.

CASE DETAILS

COURT	Missouri Court of Appeals
WRITING FOR THE COURT	Gunn, Judge; Gunn; Simeone; McMillian
JURISDICTION	Missouri
DECIDED	November 6, 1974
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from a judgment denying her petition for rescission of a real-estate sale contract and granting defendant's counterclaim for specific performance.
STANDARD OF REVIEW	Under Rule 73.01(d), the judgment would not be set aside unless clearly erroneous, with due regard given to the trial court's opportunity to assess witness credibility and resolve conflicting testimony.
PRECEDENTIAL VALUE	Published Missouri Court of Appeals opinion
PARTIES	Gage v. Gage

TOPICS

- rescission
- specific performance real estate
- contract interpretation
- standard of review
- appellate procedure

PRACTICE AREAS

- contracts
- real estate
- equitable remedies
- appellate procedure

QUESTIONS PRESENTED

1. Whether the evidence established that the contract for sale of the farm had been rescinded or modified.

2. Whether defendant was bound by her husband's alleged agreement to rescind or modify the contract based solely on the marital relationship.
3. Whether the trial court's findings and award of specific performance were clearly erroneous.

HOLDINGS

1. A marital relationship alone is insufficient to bind a wife to her husband's alteration or rescission of a contract; the plaintiff had to establish that defendant knew of and assented to, or ratified, the alleged rescission.
2. The trial court's determination that the contract had not been rescinded, and its resulting judgment for defendant, was not clearly erroneous.

KEY QUOTATIONS

"The marital relationship alone is not sufficient to bind a wife to the action of her husband regarding an alteration or rescission of a contract." (515 S.W.2d at 795)

"On the record before us we cannot say that the trial court was clearly erroneous in its determination of the case." (515 S.W.2d at 795)

FACTUAL BACKGROUND

Plaintiff and her husband entered into a September 14, 1968 contract to sell a 220-acre farm to defendant and defendant's husband, with payment by annual installments and interest. Defendant and her husband farmed the property, made permanent improvements, and made annual \$1,500 payments marked "rent." Plaintiff claimed that the parties' husbands later agreed to destroy the contract and rent the property instead, but defendant denied authorizing or ratifying any rescission and produced one fully executed copy of the contract. The trial court credited defendant's position and found that the contract remained enforceable.

PROCEDURAL HISTORY

Plaintiff filed an equity action seeking a declaration that the contract for sale of a 220-acre farm had been destroyed and rescinded. Defendant counterclaimed for specific performance. The trial court ruled for defendant on both claims, ordered plaintiff to specifically perform the contract, and directed her to convey the property after defendant completed the required payments. The Missouri Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Rimer v. Hubbert, 439 S.W.2d 5, 7 (Mo. App. 1969)
- Pittman v. Great American Life Ins. Co., 512 S.W.2d 857 (Mo. App. 1974)
- In re Counts, 511 S.W.2d 923 (Mo. App. 1974)
- Hawn v. Hawn, 505 S.W.2d 459 (Mo. App. 1974)

