

SUPREME COURT OF NORTH CAROLINA

Anderson v. Coastal Cmtys. at Ocean Ridge Plantation, Inc.

No. 376A14 (N.C. Dec. 18, 2015) · No. 376A14 · Decided December 18, 2015

SUMMARY

The Supreme Court of North Carolina affirmed the trial court's orders granting motions to dismiss in an appeal involving purchasers and related parties connected with a real estate development. The court relied on its contemporaneous decision in Arnesen v. Rivers Edge Golf Club & Plantation, Inc.; separate justices concurred in part and dissented in part for the reasons stated in that case.

CASE DETAILS

COURT	Supreme Court of North Carolina
WRITING FOR THE COURT	Per Curiam; Justice Edmunds; Justice Hudson; Justice Beasley
JURISDICTION	North Carolina
DECIDED	December 18, 2015
DOCKET	376A14
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from opinions and orders granting motions to dismiss entered in the Superior Court of Brunswick County. Before determination by the Court of Appeals, the Supreme Court certified the case for review on its own initiative.
PRECEDENTIAL VALUE	published
PARTIES	Berry Anderson et al. v. Coastal Communities at Ocean Ridge Plantation, Inc. et al.

TOPICS

- appellate procedure
- motions to dismiss
- civil procedure
- real estate

PRACTICE AREAS

- appellate procedure
- civil procedure
- real estate

QUESTIONS PRESENTED

1. Whether the trial court's orders granting defendants' motions to dismiss should be affirmed under the reasoning stated in *Arnesen v. Rivers Edge Golf Club & Plantation, Inc.*

HOLDINGS

1. The trial court's decision is affirmed for the reasons stated in *Arnesen v. Rivers Edge Golf Club & Plantation, Inc.*

KEY QUOTATIONS

“For the reasons stated in Arnesen v. Rivers Edge Golf Club & Plantation, Inc., ___ N.C. ___, ___ S.E.2d ___ (2015) (375A14), the decision of the trial court is affirmed.” (-2-)

FACTUAL BACKGROUND

The opinion contains no independent discussion of the underlying facts. It resolves the appeal by adopting the reasons stated in *Arnesen v. Rivers Edge Golf Club & Plantation, Inc.*

PROCEDURAL HISTORY

The Superior Court entered orders granting motions to dismiss on June 27, 2011, and June 13, 2012. Plaintiffs appealed pursuant to N.C.G.S. § 7A-27(b)(1). On October 10, 2014, the Supreme Court certified the case for review before determination in the Court of Appeals. The Supreme Court affirmed for the reasons stated in *Arnesen v. Rivers Edge Golf Club & Plantation, Inc.*

DISPOSITION

affirmed

CASES CITED

- *Arnesen v. Rivers Edge Golf Club & Plantation, Inc., ___ N.C. ___, ___ S.E.2d ___ (2015) (375A14)*

OPINION

PER CURIAM.

IN THE SUPREME COURT OF NORTH CAROLINA No. 376A14 Filed 18 December 2015
BERRY ANDERSON, JONATHAN BREAREY, JUDITH BURNETTE, STEPHEN BURNETTE,
YVONNE BURNETTE, EARLIE JAMES BUTLER, LINDA BUTLER, SARA COURTNEY,
MICHAEL DONOVAN, SUE DEE DUNCAN, EAG PROPERTIES, LLC, JOANNE ESSLING,
WILLIAM ESSLING, WILLIAM ESSLING, JR., EILEEN FAGAN, GARY FAGAN, EDMOND
GIROUX, MICHAEL GRANDINETTI, ROBIN GRANDINETTI, SETH JOHNSON, LINDA
KASS, ROBERT KASS, JESSICA KEENAN, SHANE KEENAN, DAVID KUKURZA,
DEBORAH KUKURZA, LUCKY 7 HOLDING CORPORATION, FRANCES MACCALLUM,
JOHN MACCALLUM, JOHN MALAN, MARIAN MALAN, MICHAEL MCCABE, SHEILA

MCCABE, BARBARA NARDELLA, MICHAEL NARDELLA, JOAN PARKIN, ROBERT PARKIN, BRENDA PICKERING, PHILIP PICKERING, JOHN PRICE, VIRGINIA PRICE, CHRISTINE RIGNEY, PATRICK RIGNEY, CHRISTOPHER ROCCO, JYOTI CHATLANI ROCCO, ELAINE ROWINSKI, STEVEN ROWINSKI, ALLISON SEN, ROHAN SEN, DAVID SHERMAN, SANDRA SHERMAN, DANNY WALKER, JEAN WALKER, JEFF WEBB, LAURIE WEBB, CAROLE WERKING, NOEL WERKING, CLARENCE WHICHARD, III, LINDA WHICHARD, GERALD WOLF, and MARY WOLF v. COASTAL COMMUNITIES AT OCEAN RIDGE PLANTATION, INC., COASTAL COMMUNITIES AT OCEAN RIDGE PLANTATION, LLC, COASTAL COMMUNITIES, INC., MARK A. SAUNDERS, DEBORAH BOODRO, MAS PROPERTIES, LLC, THE MORTGAGE COMPANY OF BRUNSWICK, INC., BRENDAN GORDON, JAMES POWELL, JAMES POWELL APPRAISALS, LLC, LYNN RABELLO, BRANCH BANKING AND TRUST COMPANY, BB&T COLLATERAL SERVICE CORPORATION, FOUR OAKS BANK AND TRUST COMPANY, CLIFTON L. PAINTER, BAXLEYSMITHWICK PLLC, and DOUGLAS BAXLEY Appeal pursuant to N.C.G.S. § 7A-27(b)(1) from opinions and orders granting motions to dismiss entered on 27 June 2011 and 13 June 2012 by Judge John R. Jolly, Jr. in Superior Court, Brunswick County.

On 10 October 2014, pursuant to N.C.G.S. § 7A-31(a) and (b)(2), and Rule 15(e)(2) of the North Carolina Rules of Appellate Procedure, the Supreme Court on its own initiative certified the case for review prior ANDERSON V. COASTAL COMMUNITIES Opinion of the Court to determination in the Court of Appeals. Heard in the Supreme Court on 18 March 2015. Hodges & Coxe, P.C., by C. Wes Hodges, II and Sarah R. Buzzard, for plaintiff- appellants.

Teague, Campbell, Dennis & Gorham, LLP, by Jacob H. Wellman and Natalia K. Isenberg, for defendant-appellees James Powell, James Powell Appraisals, LLC, and Lynn Rabello. Poyner Spruill LLP, by J. Nicholas Ellis and Caroline P. Mackie, for defendant- appellees Branch Banking and Trust Company and BB&T Collateral Service Corporation. PER CURIAM.

For the reasons stated in Arnesen v. Rivers Edge Golf Club & Plantation, Inc., ___ N.C. ___, ___ S.E.2d ___ (2015) (375A14), the decision of the trial court is affirmed. AFFIRMED. Justice EDMUNDS concurs in part and dissents in part for the reasons stated in his opinion in Arnesen v. Rivers Edge Golf Club & Plantation, Inc., ___ N.C. ___, ___ S.E.2d ___ (2015) (375A14).

Justice HUDSON and Justice BEASLEY concur in part and dissent in part for the reasons stated in Justice Hudson's opinion in Arnesen v. Rivers Edge Golf Club & Plantation, Inc., ___ N.C. ___, ___ S.E.2d ___ (2015) (375A14). -2-