

SUPREME COURT OF MONTANA

Koeppen v. Bolich

318 Mont. 240 (2003) (Mont. 2003) · No. 02-029 · Decided November 13, 2003

SUMMARY

The Montana Supreme Court affirmed a judgment concerning the relocation of an easement and whether the relocated road connected with the existing easement before crossing the respondents' property. The Court upheld findings of trespass, injunctive relief, property remediation costs, loss-of-use damages, contempt, and an award of costs.

CASE DETAILS

COURT	Supreme Court of Montana
WRITING FOR THE COURT	Jim Rice; Karla M. Gray, C.J.; W. William Leaphart, J.; Jim Regnier, J.; Patricia Cotter, J.
JURISDICTION	Montana
DECIDED	November 13, 2003
DOCKET	02-029
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendants appealed from the findings of fact, conclusions of law, order, final judgment, injunction, contempt determination, remediation and loss-of-use awards, and costs entered by the Montana district court after a bench trial concerning the location and use of a relocated easement.
STANDARD OF REVIEW	Findings of fact are reviewed for clear error under the three-part substantial-evidence and definite-and-firm-conviction test, with due regard for the trial court's credibility determinations and viewing evidence in the light most favorable to the prevailing party. Injunction orders are reviewed for manifest abuse of discretion. Conclusions of law are reviewed for correctness.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Montana; precedential within Montana.
PARTIES	Jon Bolich, Janlee Ruff, as Trustee of the Henry Lynn Stiter and M. Jo Stiter Revocable Trust v. Donald B. Koeppen, Grace E. Koeppen

TOPICS

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QUESTIONS PRESENTED

1. Whether the district court clearly erred in finding that the relocated easement across Bush property failed to connect with the existing 1950 easement before crossing the Bush-Koeppen property line.
2. Whether the district court manifestly abused its discretion by enjoining the defendants from using the road connection across Koeppen property.
3. Whether the orders requiring reinstallation of the Koeppens' fence and gates and payment of \$2,016 for property remediation were supported by substantial evidence.
4. Whether the \$200 award for the Koeppens' loss of use of their property was supported by substantial evidence.
5. Whether the contempt determination was legally correct.
6. Whether the award of costs to the Koeppens was legally correct.

HOLDINGS

1. The district court did not clearly err in finding that the relocated easement terminated short of the existing 1950 easement, leaving a gap across Koeppen property and constituting a trespass.
2. An easement holder may not select a new route across the servient estate without the servient owner's consent merely because the designated route is inconvenient or because the holder relocated an easement across adjoining property; the unauthorized use constituted trespass.
3. The injunction prohibiting the defendants from using the connection road across Koeppen property was not a manifest abuse of discretion.
4. The orders requiring restoration of the fence and gates, payment of \$2,016 for remediation and \$200 for loss of use, the contempt determination, and the award of costs were affirmed.

KEY QUOTATIONS

“Dominant owners cannot legally be permitted to roam all over the servient tenement in cases such as this; nor can they select a new route of travel, without the consent of the servient owner, whenever the particular route set aside for that purpose becomes founderous, impassible, or merely inconvenient.” (79 P.3d at 1110)

“One having an easement in another's land is bound to use it in such a manner as not to injure the rights of the owner of the servient tenement.” (79 P.3d at 1110)

FACTUAL BACKGROUND

The Stiter Trust held a 1950 easement providing roadway access across several parcels, including the Koeppens' property, with the road to be located on the bluff above Kootenai Creek as near the creek's edge as possible. In 1999, the Trust arranged to abandon portions of the original route across Cox and Bush property and to create a relocated easement across Bush property, but the Koeppens did not participate in that agreement. The relocated easement terminated approximately seventy to eighty feet short of the original easement at the Bush-Koeppen property line, and Bolich and Ruff plowed a connecting road across Koeppen property despite notice that the Koeppens did not consent. The district court found trespass, entered an injunction, ordered restoration of the fence and gates, awarded remediation and loss-of-use damages, and found the defendants in contempt.

PROCEDURAL HISTORY

The Koeppens filed suit in the Twenty-First Judicial District Court, Ravalli County, seeking a declaration of trespass, injunctive relief, restoration of their property, and related monetary relief after Bolich and Ruff plowed approximately seventy to eighty feet of road across Koeppen property to connect a relocated easement with an existing easement. The district court issued a preliminary injunction, later held a consolidated bench trial and contempt hearing, and entered judgment granting the Koeppens' requested relief. The Montana Supreme Court affirmed the judgment in its entirety.

DISPOSITION

affirmed

CASES CITED

- Han Farms, Inc. v. Molitor, 2003 MT 153, 316 Mont. 249, 70 P.3d 1238
- Guthrie v. Hardy, 2001 MT 122, 305 Mont. 367, 28 P.3d 467
- M.H. v. Montana High School Ass'n, 280 Mont. 123, 929 P.2d 239 (1996)
- Buckley v. Laird, 158 Mont. 483, 493 P.2d 1070 (1972)
- Brady v. State Highway Commission, 163 Mont. 416, 517 P.2d 738 (1973)
- Garrison v. Averill, 282 Mont. 508, 938 P.2d 702 (1997)
- Rafanelli v. Dale, 278 Mont. 28, 924 P.2d 242 (1996)
- Double AA Corp. v. Newland & Co., 273 Mont. 486, 905 P.2d 138 (1995)
- Magart v. Schank, 2000 MT 279, 302 Mont. 151, 13 P.3d 390
- Barnes v. United Indus., Inc., 275 Mont. 25, 909 P.2d 700 (1996)
- Holenstein v. Andrews, 166 Mont. 60, 530 P.2d 476 (1975)
- Burleson v. Kinsey-Cartwright, 2000 MT 278, 302 Mont. 141, 13 P.3d 384
- Laden v. Atkeson, 112 Mont. 302, 116 P.2d 881 (1941)