

SUPREME COURT OF MISSISSIPPI

Anderson v. Claiborne Cty. Recreation Club, Inc.

812 So. 2d 965 (Miss. 2002) · No. No. 2000-CA-01539-SCT · Decided April 4, 2002

SUMMARY

The Mississippi Supreme Court affirmed summary judgment for the defendants in a wrongful-death action arising from a child's drowning in an unattended swimming pool. The court held that the child was a trespasser and that the defendants' duty was limited to refraining from willful or wanton conduct, which was not established by the failure to repair a hole in the pool fence. The court also declined to address whether the recreation organization was a corporation or an unincorporated association because the trial court had not decided that issue.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	McRae, P.J.; Easley, P.J.; Graves, J.; Pittman, C.J.; Smith, P.J.; Waller, J.; Diaz, J.; Carlson, J.
JURISDICTION	Mississippi
DECIDED	April 4, 2002
DOCKET	No. 2000-CA-01539-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from the circuit court's grant of summary judgment for the defendants in a wrongful-death action arising from a child's drowning while trespassing in a closed swimming pool.
STANDARD OF REVIEW	Summary judgment was reviewed for the absence of a genuine issue of material fact and entitlement to judgment under applicable law.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Mississippi; precedential.
PARTIES	Lora Anderson, individually and as natural parent of Alisha Anderson, deceased, a minor, on behalf of all wrongful-death beneficiaries v. Claiborne County Recreation Club, Inc., Claiborne County Recreational Association, Helen Slay, Malcolm Montgomery, Danny Lurk, Jo Ann Lurk, Tony Dodgen, Cathi Dodgen, Judy Hynum, Ronnie Hynum, Mrs. Charles Barland, Ronnie Brown, Nancy Hynum, Jim Hynum, Steve Purvis, Allen Brown, Kathy Brown, Allen Burrell, Isabella Person, Raymond Willis, Ruth Willis, Charles Donald, Shelby

Donald, J.W. Person, Alex Batton, Jerry Morgan, Kay Morgan, Jordan Coley, Carolyn Coley, Douglas Nasif, Rebecca Nasif, Lisa Mcfatter, Melvin H. Mcfatter, Mary See, Winborne M. Drake, Ruth A. Drake, Bobbie Jordan, Merrie Miles Wooten, Anita Davidson, Robert Davidson, Fred Stuart, Linda Stuart, Ron Bullock, Willie Case, Joe Foster, Vivian Raner

TOPICS

premises liability wrongful death standard of care summary judgment trespass

PRACTICE AREAS

torts premises liability wrongful death civil procedure appellate procedure

QUESTIONS PRESENTED

1. Whether the defendants were entitled to summary judgment because their alleged failure to repair a hole in the fence surrounding the closed swimming pool did not constitute willful or wanton conduct toward a trespasser.
2. Whether the defendants' status as a corporation or unincorporated association should be addressed on appeal.

HOLDINGS

1. Under Mississippi law, the defendants owed the trespassing child a duty to refrain from willfully or wantonly injuring her; the failure to repair the fence hole did not constitute willful or wanton conduct.
2. Summary judgment for the defendants was proper because the record presented no genuine issue of material fact and the defendants had no liability under applicable Mississippi law.

KEY QUOTATIONS

“The parties agree that the duty of care which this Court applies to a trespasser is to refrain from willful and wanton conduct.” (812 So. 2d at 966)

“Accordingly, CCRC did not breach its duty to Alicia Anderson; it did not act in a willful or wanton manner.” (812 So. 2d at 968)

“We see no issue of material fact and affirm the trial court's summary judgment.” (812 So. 2d at 969)

FACTUAL BACKGROUND

Six-year-old Alisha Anderson crawled through a nine- or ten-inch hole in a chain-link fence surrounding a swimming pool owned by the Claiborne County Recreation Association/Claiborne County Recreation Club, Inc. The pool was closed, its gate was locked, and the parties stipulated that the hole had existed for at least a year. Alisha entered the pool and accidentally drowned, and all parties agreed that she was trespassing.

PROCEDURAL HISTORY

Lora Anderson filed a wrongful-death action against the owners and associated individuals of the swimming pool. The circuit court granted the defendants summary judgment based on the plaintiff's inability to recover damages for her daughter's drowning. The Supreme Court of Mississippi affirmed, declining to address the defendants' corporate-versus-unincorporated-association status because the circuit court had not ruled on that issue.

DISPOSITION

affirmed

CASES CITED

- Adams v. Fred's Dollar Store, 497 So. 2d 1097, 1100 (Miss. 1986)
- Goodwin v. Jackson, 484 So. 2d 1041, 1042, 1045 (Miss. 1986)
- Ausmer v. Sliman, 336 So. 2d 730, 731 (Miss. 1976)
- Gordon v. C.H.C. Corp., 236 So. 2d 733, 734-36 (Miss. 1970)
- Skelton ex rel. Roden v. Twin County Rural Elec. Ass'n, 611 So. 2d 931, 937 (Miss. 1992)
- Beta Beta Chapter v. May, 611 So. 2d 889, 895 (Miss. 1992)
- Dry v. Ford, 238 Miss. 98, 117 So. 2d 456, 458 (1960)
- Yazoo & M.V.R. Co. v. Smith, 111 Miss. 471, 71 So. 752, 756 (1916)