

SUPREME JUDICIAL COURT OF MAINE

Beverly A. Gravison et al. v. Calvert M. Fisher et al.

2016 ME 35 (2016) · No. Kno-14-437 · Decided March 1, 2016

SUMMARY

The Maine Supreme Judicial Court reviewed disputes involving deed reformation and easements affecting oceanfront and intertidal property in the Coopers Beach neighborhood of Owls Head. The court affirmed denial of the reformation claim, affirmed the rulings concerning the perimeter-path easements, and affirmed in part and vacated in part the rulings concerning beach easements.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Jabar, J.; Saufley, C.J.; Alexander, J.; Mead, J.; Gorman, J.
JURISDICTION	Maine
DECIDED	March 1, 2016
DOCKET	Kno-14-437
DISPOSITION	other
PROCEDURAL POSTURE	Appeal and cross-appeals from a bench-trial judgment of the Knox County Superior Court denying a complaint for deed reformation and declaring the existence, beneficiaries, scope, and partial abandonment of easements over a perimeter path and beach areas.
STANDARD OF REVIEW	Questions of deed and plan construction are reviewed de novo. If the deed and plan are ambiguous, interpretation is a question of fact reviewed for clear error. Factual findings concerning mutual mistake and abandonment are reviewed for clear error, with clear-and-convincing-evidence findings upheld unless a contrary result is compelled by the evidence. Unpreserved evidentiary issues are reviewed for obvious error.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Judicial Court of Maine
PARTIES	Beverly A. Gravison, David B. Gravison, Darlene F. Edwards, Lewis M. Edwards III v. Calvert M. Fisher, Wendy B. Fisher, David A. Massimi, Theresa M. Massimi, Kenneth C. Roy, Barbara J. Watrous, Douglas E. Johnson, Leah Johnson, Nina Paul, Jean Perkins, Mary-

TOPICS

easements deeds reformation real estate equitable relief

PRACTICE AREAS

real estate property law equitable remedies easements deed reformation

QUESTIONS PRESENTED

1. Whether the deed from Farber's estate to the Coastal Mountains Land Trust should be reformed based on mutual mistake to include the intertidal area.
2. Whether the source deeds of the pre-record owners created easements over the perimeter path.
3. Whether the source deeds of the post-record owners created easements over the perimeter path, and whether those easements included access to the beach.
4. Whether the perimeter-path easements were terminated by abandonment.
5. Whether the neighboring owners' deeds created easements over the Edwardses' intertidal beach area, including whether Bolan and Lawrence held such easements.
6. What activities were permitted under the neighboring owners' beach easements.

HOLDINGS

1. The Gravisons were not entitled to deed reformation because they failed to prove by clear and convincing evidence that the parties to the deed labored under a mutual mistake of fact.
2. The pre-record owners did not establish easements over the perimeter path because their deeds referred to the Blackinton Plan as laid out in June 1882, and they failed to prove that the perimeter path appeared on the original 1882 plan.
3. The post-record owners held easements over the perimeter path shown on the recorded Blackinton Plan, but those easements were limited to the path's boundaries and did not include a right to cross intervening land to reach the beach.
4. The perimeter-path easements were abandoned only where the Edwardses' home obstructed the path; they remained effective in the unobstructed portions.
5. All neighboring owners other than Bolan and Lawrence held deeded easements over the Edwardses' intertidal area; Bolan and Lawrence did not, because their claimed shore rights derived solely from a deed executed after Cora had conveyed the Edwardses' beach.
6. The beach easements permitted recreational activities reasonably related to bathing and boating, not unlimited recreational use.

KEY QUOTATIONS

“Reformation is an equitable remedy by which an instrument may be corrected when a mistake is discovered so as to reflect the real intention of the parties.” (¶ 30)

“When a deed conveys property by reference to a plan depicting lots, streets, and ways, the deed gives rise to an implied easement in those streets and ways, appurtenant to the property conveyed by reference to the plan.” (¶ 37)

“The party asserting abandonment of an easement has the burden of proving either “1) a history of nonuse coupled with an act or omission evincing a clear intent to abandon, or 2) adverse possession by the servient estate.”” (¶ 52)

FACTUAL BACKGROUND

The parties owned or claimed interests in oceanfront and inland lots in the Coopers Beach neighborhood in Owls Head, Maine. Their chains of title referred to the 1882 Blackinton Plan and, in many deeds, granted rights involving streets, ways, or use of the beach for boating and bathing. A perimeter path depicted on the recorded plan ran near the shoreline but did not touch the high-water mark, and part of it was obstructed by the Edwardses' home. A deed of distribution from Charles Farber's estate conveyed lot 63 to the Coastal Mountains Land Trust to the high-water mark, leaving the intertidal area to Nancy Ellen Wolff Bolan under Farber's will; the Gravisons sought reformation of that deed to include the intertidal area.

PROCEDURAL HISTORY

The Gravisons filed a declaratory-judgment action concerning neighboring owners' claimed rights to use their property and beach, later seeking reformation of a deed from Charles Farber's estate to the Coastal Mountains Land Trust. The Edwardses and neighboring owners asserted related easement claims, and the matters were tried together in part. After a five-day bench trial and post-judgment proceedings, the Superior Court denied reformation, found perimeter-path easements benefiting post-record owners but not pre-record owners, found partial abandonment where the Edwardses' home obstructed the path, and declared beach easements for the neighboring owners. The parties appealed and cross-appealed.

DISPOSITION

other

REMAND INSTRUCTIONS

The judgment was vacated only insofar as it declared Bolan and Lawrence holders of deeded easements over the Edwardses' intertidal area. The judgment was clarified to limit the other neighbors' beach rights to recreational activities reasonably related to bathing and boating. In all other respects, the judgment was affirmed.

CASES CITED

- Edwards v. Blackman, 2015 ME 165
- Kondaur Capital Corp. v. Hankins, 2011 ME 82, ¶ 15, 25 A.3d 960
- Sargent v. Coolidge, 433 A.2d 738, 740 n.3 (Me. 1981)

- Jordan v. Shea, 2002 ME 36, ¶¶ 18, 20, 791 A.2d 116
- Baillargeon v. Estate of Daigle, 2010 ME 127, ¶ 16, 8 A.3d 709
- St. Louis v. Wilkinson Law Offices, P.C., 2012 ME 116, ¶ 16, 55 A.3d 443
- Bartlett v. Lindahl, 560 A.2d 563, 565 (Me. 1989)
- Estate of Fournier, 2009 ME 17, ¶ 14, 966 A.2d 885
- D'Alessandro v. Town of Harpswell, 2012 ME 89, ¶ 6, 48 A.3d 786
- Arnold v. Boulay, 147 Me. 116, 121, 83 A.2d 574 (1951)
- Sleeper v. Loring, 2013 ME 112, ¶ 13, 83 A.3d 769
- Chesley v. Holmes, 40 Me. 536, 546 (1855)
- Green v. Lawrence, 2005 ME 90, ¶ 7, 877 A.2d 1079
- Testa's, Inc. v. Coopersmith, 2014 ME 137, ¶ 11, 105 A.3d 1037
- LaBelle v. Blake, 1998 ME 165, ¶ 9 n.3, 714 A.2d 145
- Amodeo v. Francis, 681 A.2d 462, 466 (Me. 1996)
- Warchalowski v. Brown, 417 A.2d 425, 428 (Me. 1980)
- Bartlett v. Bangor, 67 Me. 460, 464-65 (1878)
- Rotch v. Livingston, 91 Me. 461, 472, 40 A. 426 (1898)
- Stickney v. City of Saco, 2001 ME 69, ¶¶ 42, 51, 770 A.2d 592
- Davis v. Picciandra, 662 A.2d 898, 899 (Me. 1995)
- Canadian National Railway v. Sprague, 609 A.2d 1175, 1179 (Me. 1992)
- Chase v. Eastman, 563 A.2d 1099, 1102-03 (Me. 1989)
- Dorman v. Bates Manufacturing Co., 82 Me. 438, 448, 19 A. 915 (1890)
- Northern Sebago Shores, LLC v. Mazzaglia, 2007 ME 81, ¶ 17, 926 A.2d 728
- Mill Pond Condominium Association v. Manalio, 2006 ME 135, ¶ 6, 910 A.2d 392