

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Scites v. Marcum

211 W. Va. 30 (2002) · Decided January 25, 2002

SUMMARY

The West Virginia Supreme Court of Appeals reviewed orders granting summary judgment in a dispute over the existence, location, width, and public nature of a right-of-way across private property. The court held that genuine issues of material fact remained regarding the right-of-way and the parties’ claims for damages, and that the circuit court’s orders did not adequately explain its conclusions. The orders were reversed and the case was remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
JURISDICTION	West Virginia
DECIDED	January 25, 2002
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendants appealed circuit court orders that effectively granted summary judgment by declaring a public right-of-way across their properties, fixing its width, and ruling that neither side could recover damages.
STANDARD OF REVIEW	De novo review applies to orders resulting in the granting of summary judgment. The reviewing court applies the same test the circuit court should have applied initially and asks whether it is clear that no genuine issue of fact exists and further factual inquiry is unnecessary.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Dale Marcum, Dennie Cyfers, Naomi Cyfers v. Shauna McCoy, Jackie Scites

TOPICS

- quiet title
- summary judgment
- real estate
- appellate procedure
- standard of review

PRACTICE AREAS

- real estate
- civil procedure
- appellate procedure
- remedies

QUESTIONS PRESENTED

1. Whether summary judgment was proper when genuine issues of material fact remained concerning the existence, location, width, and nature of a right-of-way across the defendants' properties.
2. Whether the circuit court properly determined that the right-of-way was public without explaining the legal basis for that determination.
3. Whether the circuit court properly ruled that neither party was entitled to damages without sufficient factual findings and an explanation of its rationale.

HOLDINGS

1. Summary judgment was improper because genuine issues of material fact remained regarding whether a right-of-way existed across the defendants' land, its size and location, and whether it was public or private.
2. A court determining whether a right-of-way across private land is public must apply the recognized methods by which the public may acquire such a right, including condemnation, qualifying continuous and adverse public use accompanied by official recognition, or dedication accepted by the proper authorities.
3. The circuit court could not summarily rule that neither party was entitled to damages without factual findings sufficient to permit meaningful appellate review and a clear explanation of the rationale for the ruling.
4. A circuit court should grant summary judgment only when it is clear that there is no genuine issue of fact to be tried and further inquiry concerning the facts is not desirable to clarify the application of law.

KEY QUOTATIONS

“Generally there are but three methods by which the public may acquire a valid right to use land owned by another as and for a public road or highway” (33)

“The mere use of a right-of-way by members of the public will not make it a “public road,” unless there is also “some action amounting to” an acceptance of the road as such by public authorities.”” (33)

“A circuit court should grant a motion for summary judgment “only when it is clear that there is no genuine issue of fact to be tried and inquiry concerning the facts is not desirable to clarify the application of the law.”” (34)

FACTUAL BACKGROUND

The parties owned adjoining tracts in a hollow along Double Lick Branch of Cove Creek, with a gravel road paralleling the creek across the defendants' properties. The plaintiffs claimed access to their land over the defendants' properties and, during timber-removal efforts, placed gravel on portions of the road and installed a pipe in the creek bed to permit vehicles to cross. After flooding in 1997, the defendants attributed the flooding to the pipe, removed it, and placed a gate across the road. The record contained conflicting evidence concerning whether a right-of-way existed, its location and width, and whether it had public status.

PROCEDURAL HISTORY

Plaintiffs filed an action seeking to quiet title and determine the existence, nature, and extent of a right-of-way, along with damages arising from the alleged blocking of the roadway and removal of a pipe. The defendants denied the right-of-way and counterclaimed for flooding damages. After an initial denial of summary judgment, two mistrials, and a settlement involving Dale Marcum, the circuit court entered orders declaring a public right-of-way and denying damages. The Supreme Court of Appeals of West Virginia reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for further proceedings concerning the existence, size, location, and public or private nature of the right-of-way and the parties' respective claims for damages. The reversal did not affect the parties' settlement with Dale Marcum.

CASES CITED

- Painter v. Peavy, 192 W. Va. 189, 451 S.E.2d 755 (1994)
- Aetna Casualty & Surety Co. v. Federal Insurance Co. of New York, 148 W. Va. 160, 133 S.E.2d 770 (1963)
- Ryan v. Monongalia County Court, 86 W. Va. 40, 102 S.E. 731 (1920)
- Baker v. Hamilton, 144 W. Va. 575, 109 S.E.2d 27 (1959)
- Fayette County National Bank v. Lilly, 199 W. Va. 349, 484 S.E.2d 232 (1997)
- CSAT Transportation, Inc. v. Madison Group, Inc., 42 F. Supp. 2d 624 (S.D.W. Va. 1999)