

SUPREME COURT OF KENTUCKY

Buis v. Elliott

142 S.W.3d 137 (Ky. 2004) · No. 2003-SC-0498-DG · Decided August 26, 2004

SUMMARY

The Kentucky Supreme Court held that res judicata did not bar Gary Buis's subsequent claims against Roger and Sheila Elliott for indemnification, breach of contract, and unjust enrichment. The prior action established Buis's liability to the property plaintiffs but did not adjudicate the rights and liabilities between Buis and the Elliots, and Kentucky cross-claims are permissive rather than compulsory. The court reversed the Court of Appeals and remanded the case to the Casey Circuit Court.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Justice Stumbo
JURISDICTION	Kentucky
DECIDED	August 26, 2004
DOCKET	2003-SC-0498-DG
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Buis appealed the Kentucky Court of Appeals' affirmance of the Casey Circuit Court's dismissal of his complaint against the Elliots on res judicata grounds. The Supreme Court of Kentucky accepted discretionary review.
STANDARD OF REVIEW	De novo review of the application of res judicata to the undisputed procedural history.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Kentucky; binding precedent in Kentucky.
PARTIES	Gary Buis v. Roger P. Elliott, Sheila H. Elliott

TOPICS

- res judicata
- breach of contract
- civil procedure
- appellate procedure
- default judgment

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether res judicata barred Buis's subsequent claims against the Elliotts when the prior action adjudicated only Buis's liability to Cox and did not adjudicate any claim or issue between Buis and the Elliotts.
2. Whether Buis was required to assert his claims against the Elliotts as a cross-claim in the prior action.

HOLDINGS

1. Res judicata did not bar Buis's claims for breach of contract, indemnification, and unjust enrichment because the prior judgment did not adjudicate any claim or issue between Buis and the Elliotts on the merits.
2. Buis was not required to assert his claims against the Elliotts in the original action because Kentucky cross-claims are permissive rather than compulsory.

KEY QUOTATIONS

“Appellant was not required to file a cross-claim in the original action, as cross-claims in Kentucky are merely permissive and not compulsory.” (141)

“Accordingly, Appellant is not barred from his claims against the Elliotts for breach of contract, indemnification, and unjust enrichment, pursuant to the doctrine of res judicata.” (141)

FACTUAL BACKGROUND

The Elliotts sold or transferred possession of two tracts of land to Buis after retaking the property from Cox based on an alleged default under Cox's land contract. Cox then sued the Elliotts and Buis, and a default judgment was entered against Buis for damages arising from his activities on the property. Buis later attempted to assert claims against the Elliotts in that action, but the trial court denied leave to file a cross-claim. He subsequently brought a separate action against the Elliotts seeking indemnification, damages for breach of contract, and unjust enrichment.

PROCEDURAL HISTORY

After Buis failed to respond to Cox's claims in an earlier action, a default judgment was entered against him for trespass-related damages. Buis later sought to assert claims against the Elliotts by cross-claim, but the Casey Circuit Court denied leave. Buis then filed a separate action against the Elliotts for indemnification, breach of contract, and unjust enrichment. The Casey Circuit Court dismissed the new action as barred by res judicata, and the Court of Appeals affirmed. The Supreme Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded to the Casey Circuit Court for proceedings consistent with the Supreme Court's opinion.

CASES CITED

- City of Louisville v. Louisville Prof'l Firefighters Ass'n., 813 S.W.2d 804, 806 (Ky. 1991)
- Yeoman v. Commonwealth Health Policy Bd., 983 S.W.2d 459, 464-465 (Ky. 1998)
- Brown Hotel Co. v. Pittsburgh Fuel Co., 224 S.W.2d 165, 168 (Ky. 1950)
- Clark's Adm'x v. Rucker, 258 S.W.2d 9 (Ky. 1953)