

SUPREME COURT OF WASHINGTON

Preview Properties, Inc. v. Landis

161 Wash. 2d 383 (2007) · Decided July 19, 2007

SUMMARY

The Washington Supreme Court held that the Court of Appeals improperly reversed the entire judgment in a real estate dispute because it addressed only the plaintiff’s conversion and Consumer Protection Act claims. The court reinstated the judgment on unchallenged claims involving breaches of fiduciary and statutory broker duties, reinstated certain damages and a permanent injunction, and remanded for segregation of damages and attorney fees among the surviving claims.

CASE DETAILS

COURT	Supreme Court of Washington
JURISDICTION	Washington
DECIDED	July 19, 2007
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Preview Properties appealed a judgment entered after a bench trial in favor of Landis on conversion, consumer-protection, fiduciary-duty, and statutory broker-duty claims. The Court of Appeals reversed the entire judgment. The Supreme Court granted review solely on whether the Court of Appeals properly reversed the entire judgment.
STANDARD OF REVIEW	The Supreme Court reviewed whether the Court of Appeals properly reversed the entire trial-court judgment, considering the scope of the assignments of error and the portions of the judgment actually addressed on appeal.
PRECEDENTIAL VALUE	Published Washington Supreme Court opinion
PARTIES	Preview Properties, Inc. v. D. Bradley Landis

TOPICS

- real estate
- interpleader
- consumer protection
- appellate procedure
- injunctions

PRACTICE AREAS

- real estate
- consumer protection
- civil procedure
- appellate procedure
- remedies

QUESTIONS PRESENTED

1. Whether the Court of Appeals improperly reversed the entire trial-court judgment when it addressed only Landis's conversion and Consumer Protection Act claims and Preview had not challenged the judgment on Landis's other claims.
2. Whether the unchallenged damages award, lost-time award, and permanent injunction should be reinstated.
3. Whether the trial court must segregate damages, attorney fees, and costs attributable to surviving claims from amounts attributable to the Consumer Protection Act claim.

HOLDINGS

1. The Court of Appeals improperly reversed the entire judgment because its decision addressed only the conversion and Consumer Protection Act claims, while Preview did not assign error to the judgment on Landis's common-law fiduciary-duty and statutory broker-licensee-duty claims.
2. The judgment for Landis on his successful unchallenged claims, the \$3,000 award for lost time and unnecessary expense, and the permanent injunction must be reinstated.
3. On remand, the trial court must perform any necessary segregation among the claims and award fees and costs as appropriate regarding Landis's surviving claims.

KEY QUOTATIONS

“Accordingly, we reinstate the judgment for Landis on his successful unchallenged claims.” (389-390)

“This case is remanded to the trial court for further proceedings consistent with this opinion.” (390)

FACTUAL BACKGROUND

Landis agreed to sell vacant land to Layne Sapp, and Preview Properties, acting through its real estate agent, deposited Sapp's \$5,000 earnest money in a trust account. The agent falsely represented that Sapp had signed extensions of the closing date, and Preview later failed to timely return or interplead the earnest money after both Landis and Sapp demanded it. The trial court found breaches of fiduciary and statutory broker duties, conversion, and a Consumer Protection Act violation, awarding Landis damages, fees and costs, and a permanent injunction.

PROCEDURAL HISTORY

Landis obtained partial summary judgment on conversion claims and then prevailed after a bench trial, receiving damages, attorney fees and costs, and a permanent injunction concerning earnest-money funds. The Court of Appeals reversed the entire judgment while addressing only the conversion and Consumer Protection Act claims. The Supreme Court held that the reversal could not extend to unchallenged claims and remanded for claim and fee segregation as necessary.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the Court of Appeals decision in part; reinstate the judgment on Landis's successful unchallenged claims, the \$3,000 lost-time and unnecessary-expense award, and the permanent injunction; remand to the trial court for any necessary segregation of damages, attorney fees, and costs among the surviving claims and the Consumer Protection Act claim, and for further proceedings consistent with the opinion.

CASES CITED

- Hangman Ridge Training Stables, Inc. v. Safeco Title Ins. Co., 105 Wn.2d 778, 780, 719 P.2d 531 (1986)
- Travis v. Wash. Horse Breeders Ass'n, 111 Wn.2d 396, 411, 759 P.2d 418 (1988)
- Smith v. Behr Process Corp., 113 Wn. App. 306, 344-45, 54 P.3d 665 (2002)

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