

COURT OF APPEALS OF GEORGIA

Vidalia Outdoor Products, Inc. v. Higgins, 305 Ga. App. 836

701 S.E.2d 217 (Ga. Ct. App. 2010) · No. A10A1250 · Decided September 7, 2010

SUMMARY

The Georgia Court of Appeals reversed summary judgment granting Scott Higgins rescission of a contract for the purchase of a one-percent ownership interest in Vidalia Outdoor Products, Inc. The court held that genuine issues of material fact remained regarding whether the company's failure to issue a stock certificate and initially record Higgins's ownership interest constituted a material breach warranting rescission.

CASE DETAILS

COURT	Court of Appeals of Georgia
WRITING FOR THE COURT	Smith, Presiding Judge; Mikell, Judge; Adams, Judge
JURISDICTION	Georgia
DECIDED	September 7, 2010
DOCKET	A10A1250
DISPOSITION	reversed
PROCEDURAL POSTURE	Vidalia Outdoor Products, Inc. appealed the trial court's grant of summary judgment to Scott Higgins on his claim for rescission of a contract.
STANDARD OF REVIEW	Summary judgment is proper only when the record shows no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published Georgia Court of Appeals opinion
PARTIES	Vidalia Outdoor Products, Inc. v. Scott Higgins

TOPICS

[rescission](#) [material breach](#) [breach of contract](#) [remedies](#) [commercial litigation](#)

PRACTICE AREAS

[contract law](#) [corporate law](#) [remedies](#) [commercial litigation](#)

QUESTIONS PRESENTED

1. Whether Vidalia Outdoor's initial failure to issue a stock certificate and reflect Higgins's one-percent ownership interest on its tax returns constituted a material breach that authorized unilateral rescission.
2. Whether summary judgment for Higgins was proper when genuine issues of fact remained concerning the materiality of Vidalia Outdoor's alleged nonperformance.

HOLDINGS

1. A party may rescind a contract only when the opposing party's nonperformance or breach is material—so substantial and fundamental that it defeats the object or goes to the root of the contract. Because genuine issues of fact remained concerning whether Vidalia Outdoor's initial failure to issue a stock certificate and record Higgins's ownership interest was material, summary judgment for Higgins was improper.

KEY QUOTATIONS

“A breach is material when it is so substantial and fundamental as to defeat the object of the contract.” (701 S.E.2d at 219)

“In other words, to trigger the right to rescission, the act failed to be performed must go to the root of the contract.” (701 S.E.2d at 219)

FACTUAL BACKGROUND

Vidalia Outdoor agreed in writing to sell Higgins a one-percent ownership interest for \$29,000. The writing did not mention a stock certificate or a buy-back agreement, although Higgins claimed those matters were orally represented to him. Vidalia Outdoor initially failed to issue a stock certificate and did not reflect Higgins's ownership interest on its tax returns, but Higgins participated in corporate meetings and discussed corporate finances for more than a year. After Higgins demanded information and reviewed corporate documents, he rescinded the contract and sought return of his investment.

PROCEDURAL HISTORY

Higgins sued Vidalia Outdoor Products, Inc. and Tim Montgomery seeking rescission of a contract for the sale of a one-percent ownership interest and a refund of his \$29,000 investment. The trial court granted Montgomery summary judgment based on lack of individual liability and granted Higgins summary judgment against Vidalia Outdoor for \$29,000. Vidalia Outdoor appealed, contending that genuine issues of fact existed as to whether its alleged nonperformance authorized unilateral rescission.

DISPOSITION

reversed

CASES CITED

- Forsyth County v. Waterscape Svcs., 303 Ga. App. 623, 633, 694 S.E.2d 102 (2010)

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