

SUPREME COURT OF ALABAMA

Chalkley v. Tuscaloosa County Commission

34 So. 3d 667 (Ala. 2009) · No. 1070767 · Decided September 30, 2009

SUMMARY

The Supreme Court of Alabama affirmed summary judgment for the Tuscaloosa County Commission in a dispute over responsibility for maintaining a storm sewer beneath private property. The court held that the County was not responsible under a dominant-estate theory because the easement benefited both the County and subdivision property owners. It further held that the County could accept only the portions of the dedicated drainage system located within public street rights-of-way and was not required to accept responsibility for the entire system.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Murdock, Justice; Cobb, Chief Justice; Lyons, Justice; Woodall, Justice; Stuart, Justice; Smith, Justice; Bolin, Justice; Shaw, Justice; Parker, Justice
JURISDICTION	Alabama
DECIDED	September 30, 2009
DOCKET	1070767
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a summary judgment entered for the Tuscaloosa County Commission in an action seeking declaratory judgment, injunctive relief, and damages concerning the County's refusal to maintain a storm sewer beneath the appellant's property.
STANDARD OF REVIEW	Summary judgment is reviewed de novo under the same standard applied by the trial court. When the material facts are essentially undisputed, the appellate court determines de novo whether the trial court misapplied the law to those facts.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Alabama
PARTIES	Shirley Shepard Chalkley v. Tuscaloosa County Commission

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the County's status as a purported dominant-estate holder or beneficiary of the drainage easement imposed a duty to maintain and repair the storm sewer beneath Chalkley's property.
2. Whether approval and recording of the subdivision plat required the County to accept responsibility for the entire storm-drainage system rather than only the portions within street rights-of-way.
3. Whether the County's partial acceptance of the dedicated drainage system was legally permissible.

HOLDINGS

1. The County did not owe a duty to maintain or repair the storm-drainage system merely because it may have held a dominant estate or benefited from the easement.
2. The recording and approval of the subdivision plat constituted a dedication of the designated easements for public use, but the dedication alone did not impose on the County a duty to maintain them.
3. The County lawfully could accept only those portions of the storm-drainage system located within street rights-of-way and reject responsibility for portions beneath private property.

KEY QUOTATIONS

"The principle recognized in Ivey, which has been recognized repeatedly in other jurisdictions, is that because acceptance of a dedication constitutes the assumption of responsibility for the property in question, a grantor cannot automatically impose such responsibility on the public through his or her dedication of the property."
(at 673)

"Nothing in our law prevents such a partial acceptance, and we will not rewrite the law to impose an obligation upon the County that it does not wish to accept." (at 677)

FACTUAL BACKGROUND

Chalkley owned an interest in lot 98 of the Mallard Creek subdivision, where a concrete storm sewer ran through a 20-foot drainage easement. The subdivision plat dedicated the easements for public utilities, sanitary sewers, storm sewers, and storm ditches, but the Tuscaloosa County Commission later adopted a resolution accepting for maintenance only drainage structures located within dedicated street rights-of-way. After a sinkhole developed on Chalkley's property, allegedly because of the failure of the storm drain beneath it, the Commission declined responsibility for repairing the portion located on private property.

PROCEDURAL HISTORY

Chalkley sued the Commission after it declined to investigate or repair a storm drain located beneath her property, asserting that the drain's failure caused a dangerous sinkhole and property damage. The trial court

entered summary judgment for the Commission, concluding that imposing responsibility for the entire drainage system would require a policy determination for the legislative branch. The Supreme Court of Alabama affirmed.

DISPOSITION

affirmed

CASES CITED

- American Gen. Life & Accident Ins. Co. v. Underwood, 886 So. 2d 807, 811 (Ala. 2004)
- Carter v. City of Haleyville, 669 So. 2d 812, 815 (Ala. 1995)
- Continental Nat'l Indem. Co. v. Fields, 926 So. 2d 1033, 1034-35 (Ala. 2005)
- Mountain Brook Estates, Inc. v. Solomon, 247 Ala. 157, 23 So. 2d 1 (1945)
- Montabano v. City of Mountain Brook, 653 So. 2d 947, 949 (Ala. 1995)
- City of Fairfield v. Jemison, 283 Ala. 462, 464, 218 So. 2d 273, 275 (1969)
- Greil v. Stollenwerck, 201 Ala. 303, 306, 78 So. 79, 82 (1918)
- Vestavia Hills Bd. of Educ. v. Utz, 530 So. 2d 1378, 1383 (Ala. 1988)
- Ivey v. City of Birmingham, 190 Ala. 196, 204-05, 67 So. 506, 509 (1914)
- Tuxedo Homes, Inc. v. Green, 258 Ala. 494, 497-99, 63 So. 2d 812, 814-16 (1953)
- Baldwin County Commission v. Jones, 344 So. 2d 1200, 1204 (Ala. 1977)
- Blair v. Fullmer, 583 So. 2d 1307, 1310-11 (Ala. 1991)
- Lybrand v. Town of Pell City, 260 Ala. 534, 538, 71 So. 2d 797, 801 (1954)
- Cottage Hill Land Corp. v. City of Mobile, 443 So. 2d 1201 (Ala. 1983)
- CRW, Inc. v. Twin Lakes Property Owners Association, Inc., 521 So. 2d 939 (Ala. 1988)
- Harper v. Coats, 988 So. 2d 501, 508 (Ala. 2008)
- Beachcroft Properties, LLP v. City of Alabaster, 949 So. 2d 899, 901-06 (Ala. 2006)
- Beachcroft Properties, LLP v. City of Alabaster, 901 So. 2d 703, 706, 709-10 (Ala. 2004)
- Corbin v. Cherokee Realty Co., 229 S.C. 16, 25, 91 S.E.2d 542, 546 (1956)
- Home Real Estate Loan & Ins. Co. v. Town of Carolina Beach, 216 N.C. 778, 788, 7 S.E.2d 13, 20 (1940)
- Moore v. City of Chicago, 261 Ill. 56, 59, 103 N.E. 583, 584 (1913)
- Brown v. Moore, 255 Va. 523, 529-30, 500 S.E.2d 797, 800 (1998)