SUPREME COURT OF RHODE ISLAND

Mutual Development Corp. v. Ward Fisher & Co.

47 A.3d 319 (R.I. 2012) · Decided July 13, 2012

SUMMARY

The Rhode Island Supreme Court affirmed summary judgment for Ward Fisher & Company, LLP and WF Realty & Investment, LLC in an action seeking compensation for an alleged oral finder's fee arising from a real-estate sale. The court held that Rhode Island's Statute of Frauds applies to agreements for commissions or fees connected with the sale of real estate, regardless of whether the claimant is characterized as a finder or broker and regardless of whether compensation is percentage-based or a flat sum. Because the alleged agreement was not in writing, the plaintiff's claims were barred.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Justice Robinson; Flaherty; Goldberg; Indeglia; Robinson; Suttell
JURISDICTION	Rhode Island
DECIDED	July 13, 2012
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from the Superior Court's grant of summary judgment for defendants on claims for breach of contract, fraud, and unjust enrichment.
STANDARD OF REVIEW	Summary judgment and statutory-interpretation questions are reviewed de novo. Summary judgment is proper when, viewing the facts and reasonable inferences favorably to the nonmoving party, no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Mutual Development Corporation v. Ward Fisher & Company, LLP, WF Realty & Investment, LLC

TOPICS

statute of frauds · real estate · statutory interpretation · standard of review · appellate procedure

PRACTICE AREAS

contracts · real estate · statutory interpretation · appellate procedure

QUESTIONS PRESENTED

1. Whether Rhode Island's Statute of Frauds applies to an oral agreement for a finder’s fee arising from the sale of an interest in real estate.
2. Whether the statutory term "commission" encompasses both flat-sum and percentage-based compensation.
3. Whether the Statute of Frauds barred the plaintiff’s breach of contract, fraud, and unjust enrichment claims.

HOLDINGS

1. Rhode Island's Statute of Frauds does not distinguish between a broker and a finder. Any person or entity seeking a commission upon the sale of any interest in real estate must have evidence of the agreement in writing, signed by the party to be charged or an authorized person.
2. The term "commission" in subsection 6 encompasses both flat-sum commissions and percentage-based commissions.
3. Because the alleged real-estate finder’s-fee agreement was oral and not memorialized in a signed writing, it was unenforceable, and the Statute of Frauds barred plaintiff’s breach of contract, fraud, and unjust enrichment claims.

KEY QUOTATIONS

> *“We therefore hold that the Statute of Frauds does not draw a distinction between a broker and a finder and that any person or entity seeking a commission upon the sale of any interest in real estate must have evidence of that agreement in writing, signed by the party to be charged or by some other lawfully authorized person.”* (328)

> *“Accordingly, taking into account the just-quoted dictionary definitions (none of which defines “commission” as exclusively relating to percentage-based compensation), it is our view that the term “commission” as utilized in subsection 6 of the Statute of Frauds (§ 9-1-4) encompasses any type of payment, whether it be a flat-sum commission or a percentage-based commission.”* (329)

FACTUAL BACKGROUND

The defendants sought to purchase a commercial building, and Stephen Soscia, president of Mutual Development, introduced them to a commercial property at 250 Centerville Road in Warwick. Soscia allegedly mentioned an expectation of a fee, but there was no written agreement providing for compensation. After an initial offer was rejected, Ward Fisher submitted another offer without Soscia’s assistance, and WF Realty ultimately purchased the property.

PROCEDURAL HISTORY

Mutual Development filed suit in the Superior Court for Kent County seeking compensation allegedly owed under an oral finder's-fee agreement arising from the sale of commercial real estate. After discovery, defendants moved for summary judgment and plaintiff filed an objection and cross-motion. The Superior Court entered summary judgment for defendants on all counts, and plaintiff timely appealed.

DISPOSITION

affirmed

CASES CITED

- Employers Mutual Casualty Co. v. Arbella Protection Insurance Co., 24 A.3d 544, 553 (R.I. 2011)
- Brochu v. Santis, 939 A.2d 449 (R.I. 2008)
- Fishbein v. Zexter, 107 R.I. 672, 270 A.2d 510 (1970)
- Bottomley v. Coffin, 121 R.I. 399, 399 A.2d 485 (1979)
- Heyman v. Adeack Realty Co., 102 R.I. 105, 228 A.2d 578 (1967)
- Buckingham v. Stille, 379 N.W.2d 30 (Iowa Ct. App. 1985)
- Minichiello v. Royal Business Funds Corp., 18 N.Y.2d 521, 277 N.Y.S.2d 268, 223 N.E.2d 793 (1966)
- Planned Environments Management Corp. v. Robert, 966 A.2d 117 (R.I. 2009)
- In re Harrison, 992 A.2d 990, 994 (R.I. 2010)
- Waddle v. Elrod, 367 S.W.3d 217 (Tenn. 2012)
- Dooley v. Lachut, 103 R.I. 21, 234 A.2d 366 (1967)