

SUPREME COURT OF THE STATE OF MONTANA

Ming Da Situ and Pei Shu Zhou v. H. Douglas Smole, as successor trustee of the Lois M. Murphy revocable trust

2013 MT 33 (2013) · No. DA 12-0329 · Decided February 12, 2013

SUMMARY

The Montana Supreme Court affirmed dismissal of Ming Da Situ and Pei Shu Zhou’s breach-of-lease and option-to-purchase claims as barred by the statute of limitations. The Court held that the statute began running when the plaintiffs exercised the purchase option and that their continued possession as holdover tenants did not extend the option. The Court also rejected equitable estoppel and upheld the district court’s treatment of the motion as a Rule 12(b)(6) matter.

CASE DETAILS

COURT	Supreme Court of the State of Montana
WRITING FOR THE COURT	Justice Patricia O. Cotter; Patricia O. Cotter; Mike McGrath; Beth Baker; Michael E. Wheat; Jim Rice
JURISDICTION	Montana
DECIDED	February 12, 2013
DOCKET	DA 12-0329
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from the district court's dismissal of their breach-of-lease complaint under Montana Rule of Civil Procedure 12(b)(6) on statute-of-limitations grounds. They also challenged the district court's consideration of material outside the pleadings, but did not directly challenge the summary judgment entered on the defendant's unlawful-detainer counterclaim.
STANDARD OF REVIEW	The court reviewed de novo the Rule 12(b)(6) dismissal and reviewed the district court's conclusions of law for correctness. A dismissal is proper if the plaintiff would not be entitled to relief under any set of facts that could be proven to support the claim.
PRECEDENTIAL VALUE	Published Montana Supreme Court opinion; precedential
PARTIES	Ming Da Situ, Pei Shu Zhou v. H. Douglas Smole, as successor trustee of the Lois M. Murphy revocable trust

TOPICS

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QUESTIONS PRESENTED

1. Whether the district court properly dismissed the Situs' contract and option-to-purchase claims as barred by Montana's eight-year statute of limitations for written contracts.
2. Whether Murphy was equitably estopped from asserting the statute of limitations because of her alleged acquiescence and silence concerning the purchase option and appraisal.
3. Whether the district court improperly considered material outside the pleadings without converting the Rule 12(b)(6) motion into a Rule 56 summary-judgment motion and providing notice and an opportunity to present pertinent materials.

HOLDINGS

1. The claims were barred by Montana's eight-year statute of limitations because the limitations period began when the Situs exercised the option by demanding performance, and even using September 28, 2000 as the accrual date, the August 17, 2009 action was untimely.
2. Murphy was not equitably estopped from asserting the statute of limitations because the Situs did not allege facts showing that Murphy's conduct caused them, in good faith, to change their position for the worse.
3. The district court did not improperly convert the Rule 12(b)(6) motion into a Rule 56 motion by noting an inconsistency regarding the rent-increase date in a footnote, because that fact had no bearing on the statute-of-limitations analysis.

KEY QUOTATIONS

"The option to purchase was not a term of the tenancy. Therefore, the option to purchase does not extend throughout the pendency of the holdover tenancy and cannot be exercised at any point later than granted by the Lease." (¶ 21)

"Situs can prove no set of facts that would demonstrate that they commenced their cause of action within eight years of the exercise of their option, as required by § 27-2-202(1), MCA." (¶ 23)

FACTUAL BACKGROUND

The Situs leased Murphy's commercial real property for ten years under a written agreement beginning in 1989. The lease granted them an option to purchase the land at the end of the lease term, with the purchase price to be mutually agreed upon or determined by independent appraisal. The lease expired in October 1999, but the Situs remained in possession as holdover tenants and continued paying monthly rent. They alleged that they exercised

the purchase option and that Murphy agreed in September 2000 to appoint an appraiser, but no appraisal occurred; the Situs did not file suit until August 2009.

PROCEDURAL HISTORY

The Situs filed a complaint seeking declaratory relief, enforcement of an option to purchase leased real property, damages, costs, and attorney fees. The district court dismissed the complaint as untimely, and the Situs' initial appeal was dismissed because the defendant's counterclaim remained pending. The district court later granted summary judgment on the unlawful-detainer counterclaim and entered final judgment, after which the Situs pursued this appeal limited primarily to dismissal of their complaint. The Montana Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Meagher v. Butte-Silver Bow City-County, 2007 MT 129, ¶¶ 13, 15-16, 337 Mont. 339, 160 P.3d 552
- Plouffe v. State, 2003 MT 62, ¶¶ 8, 15, 314 Mont. 413, 66 P.3d 316
- Farmers Coop. Ass'n v. Amsden, 2007 MT 287, ¶ 9, 339 Mont. 452, 171 P.3d 684
- Guest v. McLaverty, 2006 MT 150, ¶ 2, 332 Mont. 421, 138 P.3d 812
- Wright v. Brooks, 47 Mont. 99, 130 P. 968 (1913)
- Nevala v. McKay, 178 Mont. 327, 583 P.2d 1065 (1978)
- Miller v. Meredith, 149 Mont. 125, 423 P.2d 595 (1967)
- Rasmussen v. Lee, 276 Mont. 84, 916 P.2d 98 (1996)
- Willson v. Terry, 265 Mont. 119, 874 P.2d 1234 (1994)
- Johnson Farms, Inc. v. Halland, 2012 MT 215, ¶ 28, 366 Mont. 299
- Pankratz Farms, Inc. v. Pankratz, 2004 MT 180, ¶ 67, 322 Mont. 133, 95 P.3d 671
- Selley v. Liberty Northwest Ins. Corp., 2000 MT 76, ¶¶ 9, 11, 299 Mont. 127, 998 P.2d 156
- Lozeau v. GEICO Indem. Co., 2009 MT 136, ¶ 10, 350 Mont. 320, 207 P.3d 316

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