

SUPREME COURT OF TENNESSEE

Charles Grogan v. Daniel Uggla, et al.

Grogan v. Uggla · No. M2014-01961-SC-R11-CV · Decided November 21, 2017

SUMMARY

Justice Sharon G. Lee dissents from the dismissal of Charles Grogan’s negligence claim against home inspector Jerry Black. She concludes that a home inspector owes a duty of reasonable care to a homeowner’s guest when a negligently missed defect, such as a dangerous second-story deck railing, could foreseeably cause serious injury. The dissent would have allowed a jury to determine whether the inspector breached that duty.

CASE DETAILS

COURT	Supreme Court of Tennessee
WRITING FOR THE COURT	Sharon G. Lee, Justice
JURISDICTION	Tennessee
DECIDED	November 21, 2017
DOCKET	M2014-01961-SC-R11-CV
DISPOSITION	other
PROCEDURAL POSTURE	Appeal by permission from the Court of Appeals in a negligence action involving a home inspector's alleged failure to identify a defective deck railing. The dissent addresses the trial court's grant of summary judgment dismissing the guest's claim against the home inspector.
STANDARD OF REVIEW	At the summary judgment stage, the facts must be viewed in the light most favorable to the nonmoving party. The dissent applies the duty-of-care analysis to determine whether the alleged injury was reasonably foreseeable, whether the foreseeability and gravity of harm outweighed the burden of prevention, and whether public policy supported imposing a duty.
PRECEDENTIAL VALUE	Published dissenting opinion; nonbinding as a dissent.
PARTIES	Charles Grogan v. Daniel Uggla, et al.

TOPICS

duty of care

professional negligence

summary judgment

negligence

personal injury

PRACTICE AREAS

Tort law

Negligence

Professional liability

Civil procedure

QUESTIONS PRESENTED

1. Whether a home inspector owes a duty of reasonable care to a homeowner's social guest who was not a party to the inspection contract and did not rely on the inspection report.
2. Whether, viewing the facts in the light most favorable to the guest, the foreseeability and gravity of the potential harm outweighed the burden of preventive conduct and supported imposing a duty as a matter of law.
3. Whether summary judgment should have been denied so that a jury could decide whether the home inspector breached the duty of reasonable care.

HOLDINGS

1. In the dissent's view, a home inspector owes a duty of reasonable care to a homeowner's guest when it is foreseeable that negligent inspection of a dangerous condition could cause the guest serious injury, even though the guest neither contracted for nor relied on the inspection.
2. Summary judgment should have been denied because the evidence, viewed favorably to Grogan, supported a legally cognizable duty and left whether Black breached that duty for a jury to decide.

KEY QUOTATIONS

"Therefore, a home inspector, as a matter of law, owes a duty of reasonable care to a guest of the homeowner." (at 1)

"Under our traditional duty analysis, Mr. Black owed Mr. Grogan a duty to exercise reasonable care in conducting the home inspection." (at 4)

"The trial court should have denied summary judgment and allowed the case to proceed." (at 4)

FACTUAL BACKGROUND

Daniel Uggla purchased a Tennessee home after hiring Jerry Black, a home inspector with Pillar to Post, Inc., to inspect it. Black reported several repair issues but did not identify defects in the second-story deck railing, which was attached with small, corroded finishing nails rather than galvanized nails. At a housewarming party, Charles Grogan, Uggla's guest, leaned on the railing, which broke, causing Grogan to fall to the ground and sustain serious injuries. Grogan sued Black for negligently failing to discover and report the defective railing.

PROCEDURAL HISTORY

Charles Grogan sued home inspector Jerry Black, alleging that Black negligently failed to discover and report a defective second-story deck railing during an inspection of Daniel Uggla's home. Black moved for summary judgment, asserting that he owed no duty to Grogan because Grogan was not a party to the inspection contract

and did not rely on the inspection report. The claim was dismissed, and the case reached the Tennessee Supreme Court by permission from the Court of Appeals. Justice Lee dissented, concluding that summary judgment should have been denied and the claim submitted to a jury.

DISPOSITION

other

REMAND INSTRUCTIONS

The dissent would reverse the dismissal, deny summary judgment, and allow the negligence claim to proceed so that a jury could determine whether the home inspector breached the duty of reasonable care.

CASES CITED

- Giggers v. Memphis Housing Authority, 277 S.W.3d 359, 364 (Tenn. 2009)
- Burroughs v. McGee, 118 S.W.3d 323, 328-29 (Tenn. 2003)
- McClung v. Delta Square Ltd. Partnership, 937 S.W.2d 891, 894, 904 (Tenn. 1996)
- Satterfield v. Breeding Insulation Co., 266 S.W.3d 347, 364-67 (Tenn. 2008)
- West v. East Tennessee Pioneer Oil Co., 172 S.W.3d 545, 551 (Tenn. 2005)
- McCall v. Wilder, 913 S.W.2d 150, 153 (Tenn. 1995)
- Downs ex rel. Downs v. Bush, 263 S.W.3d 812, 820 (Tenn. 2008)
- Doe v. Linder Construction Co., 845 S.W.2d 173, 178 (Tenn. 1992)
- Lopez v. Three Rivers Electric Cooperative, Inc., 26 S.W.3d 151, 156 (Mo. 2000)
- Bradshaw v. Daniel, 854 S.W.2d 865, 870 (Tenn. 1993)
- Parker v. Holiday Hospitality Franchising, Inc., 446 S.W.3d 341, 347 (Tenn. 2014)
- Mills v. CSX Transportation, Inc., 300 S.W.3d 627, 632 (Tenn. 2009)
- Russell v. Bray, 116 S.W.3d 1, 6 (Tenn. Ct. App. 2003)
- Oliveira v. Jensen, No. HHDCV136045373S, 2015 WL 9809752, at *1, *8-9 (Conn. Super. Ct. Dec. 7, 2015)