

SUPREME COURT OF DELAWARE

Council of the Dorset Condominium Apartments v. Gordon

801 A.2d 1 (Del. 2002) · No. No. 238, 2001 · Decided May 22, 2002

SUMMARY

The Delaware Supreme Court affirmed in part the Court of Chancery's ruling that a condominium council lacked authority under the governing documents to assess unit owners for replacement of exterior windows and sliding glass doors. The court held that the windows and doors were part of the individual units rather than common elements or common expenses. It reversed and remanded issues concerning the applicable interest rate on the parking-deck assessment and the denial of attorneys' fees and costs.

CASE DETAILS

COURT	Supreme Court of Delaware
WRITING FOR THE COURT	Steele, Justice; Veasey, Chief Justice; Walsh, Justice; Holland, Justice; Berger, Justice
JURISDICTION	Delaware
DECIDED	May 22, 2002
DOCKET	No. 238, 2001
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Council appealed a Court of Chancery judgment concerning condominium assessments, interest, and attorney's fees. The Supreme Court affirmed the ruling that the Council lacked authority to impose an assessment for replacing exterior windows and sliding doors, and reversed and remanded the rulings concerning the applicable interest rate and attorney's fees and costs.
STANDARD OF REVIEW	The court reviewed the interpretation of the condominium declaration and code of regulations as a legal issue under ordinary principles of contract interpretation.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	The Council of the Dorset Condominium Apartments v. Edward O. Gordon, Peggy S. Pranzo, Drucilla D. Wetzels, Trustee U/A/D October 27, 1998

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QUESTIONS PRESENTED

1. Whether the exterior windows and sliding glass doors were common elements or otherwise constituted common expenses that the Council could assess against all unit owners.
2. Whether the condominium declaration and code of regulations authorized a simple majority of unit owners to designate the window and door replacement as a common expense.
3. Whether the Court of Chancery properly determined the interest rate applicable to the parking-deck assessment.
4. Whether the Court of Chancery properly denied the Council attorney's fees and costs under the code of regulations.

HOLDINGS

1. The exterior windows and sliding glass doors were part of the individual units, not common elements, because the declaration specifically included them within the description of each unit. Accordingly, the Council lacked authority to impose the related replacement assessment as a common expense under the Unit Property Act.
2. The declaration and code of regulations did not authorize a simple majority of unit owners to designate any expense as common. The governing documents permitted owner action only when specifically authorized, and the only provision addressing creation of a common expense applied to improvements in common elements, not to the individual windows and doors.
3. The parking-deck assessment was valid because the parking area was a common element and the work constituted maintenance, repair, or replacement rather than an improvement requiring owner approval under Article 12(I).
4. The interest-rate ruling was reversed and remanded because the Court of Chancery did not disclose the basis for applying the legal rate rather than the rate permitted by the Unit Property Act and the code of regulations.
5. The denial of attorney's fees and costs was reversed and remanded for specific findings concerning the fee provision in Article 9(A)(2) of the code of regulations.

KEY QUOTATIONS

"A condominium declaration and its accompanying code of regulations together form no more than an ordinary contract between the unit owners (and, initially, the developer), created under the statutory

framework of the Unit Properties Act.” (5)

“A court must interpret contractual provisions in a way that gives effect to every term of the instrument, and that, if possible, reconciles all of the provisions of the instrument when read as a whole.” (7)

“It is not within our purview to add unilaterally to the terms of an agreement to strengthen its perceived goal.” (8)

FACTUAL BACKGROUND

The Dorset Condominium Apartments was governed by a declaration and code of regulations adopted under Delaware's Unit Property Act. The Council contracted for replacement of the condominium parking deck and later contracted for replacement of exterior windows and sliding glass doors after a vote of the unit owners and an unsuccessful special meeting. The governing documents described each unit as including its windows and doors, while assigning the Council responsibility for certain exterior portions of the building and for common elements.

PROCEDURAL HISTORY

The Council sought injunctive and monetary relief against three unit owners in the Court of Chancery. The Vice Chancellor upheld the assessment for replacement of the condominium parking deck but held that the Council lacked authority to assess the owners for replacing exterior windows and sliding doors; the court also applied the legal interest rate and denied attorney's fees and costs. The Council appealed the window-and-door ruling, interest rate, and fee ruling, while the unit owners did not appeal the parking-deck assessment.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Court of Chancery was directed to reconsider the applicable interest rate and the denial of costs and attorney's fees, state the basis for its conclusions on both issues, and file its report within 30 days. Appellate jurisdiction was retained. The judgment was affirmed insofar as it rejected the window-and-door assessment and upheld the parking-deck assessment.

CASES CITED

- The Council of the Dorset Condominium Apartments v. Gordon, Del. Ch., 787 A.2d 723 (2001)
- Linden Knoll Condominium Ass'n v. McDermott, Del. Super., C.A. No. 93C-03-090, 1994 WL 555361 (Del. Super. Ct. Aug. 19, 1994)
- Citadel Holding Corp. v. Roven, 603 A.2d 818, 822 (Del. 1992)
- Warner Communications Inc. v. Chris-Craft Indus., Inc., 583 A.2d 962, 971 (Del. Ch. 1989), aff'd, 567 A.2d 419 (Table) (Del. 1989)
- Rhone-Poulenc Basic Chems. Co. v. American Motorists Ins. Co., 616 A.2d 1192, 1195 (Del. 1992)

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