

SUPREME COURT OF SOUTH DAKOTA

Hahne v. Burr

705 N.W.2d 867 (S.D. 2005) · No. Nos. 23448, 23461 · Decided October 26, 2005

SUMMARY

The South Dakota Supreme Court affirmed summary judgment denying specific performance of an alleged oral agreement for the sale of land because the writings did not satisfy the statute of frauds. The court also held that payment, continued possession under a lease, attorney and title-policy expenses, and alleged reliance did not establish partial performance or estoppel. The court further affirmed the denial of Rule 11 sanctions and appellate attorney fees.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Zinter, Justice; Gilbertson, Chief Justice; Sabers, Justice; Konenkamp, Justice; Meierhenry, Justice
JURISDICTION	South Dakota
DECIDED	October 26, 2005
DOCKET	Nos. 23448, 23461
DISPOSITION	affirmed
PROCEDURAL POSTURE	Hahne appealed summary judgment denying specific performance of an alleged oral agreement to sell real estate on statute-of-frauds grounds. Burr sought review of the trial court's denial of Rule 11 sanctions and attorney's fees.
STANDARD OF REVIEW	Summary judgment is reviewed to determine whether genuine issues of material fact exist and whether the law was correctly applied; all reasonable inferences are viewed in favor of the nonmoving party. Rule 11 sanctions are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published South Dakota Supreme Court opinion; precedential.
PARTIES	Bill Hahne v. Clarence W. Burr, Clarence W. Burr, Trustee of Clarence W. Burr 1994 Living Trust

TOPICS

- statute of frauds
- specific performance real estate
- summary judgment
- attorney fees
- appellate procedure

PRACTICE AREAS

contracts

real estate

remedies

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the writings relied upon by Hahne satisfied the statute of frauds for an agreement to sell real estate.
2. Whether Hahne established partial performance sufficient to remove the alleged oral agreement from the statute of frauds.
3. Whether equitable or promissory estoppel required enforcement of the alleged oral agreement.
4. Whether the trial court abused its discretion by denying Burr's request for Rule 11 sanctions and attorney's fees.
5. Whether Burr was entitled to appellate attorney's fees and costs.

HOLDINGS

1. The alleged oral agreement for the sale of land was unenforceable because Hahne produced no writing subscribed by Burr or an authorized agent confirming the agreement.
2. Hahne's alleged payment, continued possession, attorney retention, and title-policy activity did not constitute sufficient partial performance.
3. Hahne failed to establish estoppel because he did not provide evidence that he detrimentally relied on Burr's alleged promise or representation.
4. The trial court did not abuse its discretion by denying Burr's request for Rule 11 sanctions and attorney's fees.
5. Burr was not entitled to appellate attorney's fees and costs because he was not a successful Rule 11 applicant in the trial court.

KEY QUOTATIONS

“we decide only whether genuine issues of material fact exist and whether the law was correctly applied. If any legal basis exists to support the trial court's ruling, we will affirm.” (at 870)

“Under the statute of frauds, a contract for the sale of land must be in writing to be enforceable.” (at 871)

“payment of the whole or a part of the purchase price is not sufficient in itself to take a case out of the operation of the statute of frauds.” (at 872)

“in order for an act by the plaintiff to be sufficient to constitute part performance, it “must be unequivocally referable to the contract.”” (at 873)

FACTUAL BACKGROUND

Hahne and Steve Schneider leased real property from Burr under a three-year written lease. After the lease ended, Hahne and Burr discussed a possible sale, and Hahne claimed that by December 2002 they had orally

agreed on all terms, including price. Hahne paid \$15,000, retained an attorney to prepare closing documents, and allegedly refrained from acquiring other land in reliance on the sale, but Burr later declined to sell. Documents associated with the transaction indicated that Steven, Todd, and Kelly Landis may have been the intended purchasers.

PROCEDURAL HISTORY

Hahne sued Burr for specific performance of an alleged oral land-sale agreement. The trial court granted Burr summary judgment based on the statute of frauds and rejected Hahne's partial-performance and estoppel theories. The court also denied Burr's request for Rule 11 sanctions and attorney's fees. The Supreme Court of South Dakota affirmed on all issues.

DISPOSITION

affirmed

CASES CITED

- Schulte v. Progressive Northern Insurance Co., 2005 SD 75, ¶ 5, 699 N.W.2d 437, 438
- Northstream Investments, Inc. v. 1804 Country Store Co., 2005 SD 61, ¶ 11, 697 N.W.2d 762, 765
- Jacobson v. Gulbransen, 2001 SD 33, ¶ 15, 623 N.W.2d 84, 88
- Harriman v. United Dominion Industries, Inc., 2005 SD 18, ¶ 15, 693 N.W.2d 44, 48
- Wiggins v. Shewmake, 374 N.W.2d 111, 114 (S.D. 1985)
- Durkee v. Van Well, 2002 SD 150, ¶ 21, 654 N.W.2d 807, 815
- Boekelheide v. Snyder, 71 S.D. 470, 473, 26 N.W.2d 74, 75 (1947)
- Ells v. Ells, 245 N.W.2d 498, 500 (S.D. 1976)
- Williams v. Denham, 83 S.D. 518, 523, 162 N.W.2d 285, 288 (1968)
- Skjoldal v. Myren, 86 S.D. 111, 119, 191 N.W.2d 809, 813 (1971)
- Shaw v. George, 82 S.D. 62, 66, 141 N.W.2d 405, 407 (1966)
- Morton v. Lanier, 311 Mont. 301, 55 P.3d 380, 385 (2002)
- Nelson v. Elway, 908 P.2d 102, 119 (Colo. 1995)
- Veum v. Sheeran, 95 Minn. 315, 104 N.W. 135, 137 (1905)
- Simons v. Simons, 134 Idaho 824, 11 P.3d 20, 23 (2000)
- Cleveland v. Tinaglia, 1998 SD 91, ¶ 38, 582 N.W.2d 720, 727
- Canyon Lake Park, LLC v. Loftus Dental, P.C., 2005 SD 82, ¶ 38, 700 N.W.2d 729, 739
- Garrett v. BankWest, Inc., 459 N.W.2d 833, 848 (S.D. 1990)
- Century 21 Associated Realty v. Hoffman, 503 N.W.2d 861, 866 (S.D. 1993)
- Prunty Construction, Inc. v. City of Canistota, 2004 SD 78, ¶ 28, 682 N.W.2d 749, 761