

SUPREME COURT OF UTAH

View Condominium Owners Ass'n v. MSICO, L.L.C.

2005 UT 91 (2005) · No. 20040369 · Decided December 30, 2005

SUMMARY

The Utah Supreme Court held that an amended subdivision plat did not terminate a restrictive covenant reserving lot 5 for parking because the plat and declaration were consistent and the declaration remained controlling. The court also held that Alta's revised snow-storage plan did not constitute a compensable regulatory taking because it did not substantially interfere with the condominium association's use or value of lot 8. The court reversed the Utah Court of Appeals and remanded for entry of judgment, subject to an abandonment defense and further proceedings on other claims.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Justice Parrish; Associate Chief Justice Wilkins; Justice Durrant; Justice Nehring
JURISDICTION	Utah
DECIDED	December 30, 2005
DOCKET	20040369
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Certiorari review of the Utah Court of Appeals' decision concerning summary judgment on a restrictive parking covenant and a constitutional regulatory-takings claim.
STANDARD OF REVIEW	On certiorari, the Supreme Court reviews the court of appeals' decision for correctness. Contract interpretation and the grant or denial of summary judgment are reviewed for correctness; facts and reasonable inferences are viewed in the light most favorable to the nonmoving party.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	MSICO, L.L.C., Town of Alta v. The View Condominium Owners Association

TOPICS

covenants and restrictions

real estate

takings clause

summary judgment

appellate procedure

PRACTICE AREAS

real estate

constitutional law

municipal law

contracts

appellate procedure

QUESTIONS PRESENTED

1. Whether recording an amended plat terminated or modified the Declaration's restrictive covenant designating lot 5 for parking.
2. Whether Alta's revised snow-storage plan constituted an unconstitutional taking of The View's property interest in the use and enjoyment of lot 8 under article I, section 22 of the Utah Constitution.

HOLDINGS

1. The amended plat did not modify or terminate the Declaration's restrictive covenant requiring lot 5's surface area to be used for parking. The Declaration and amended plat were consistent and unambiguously preserved the parking covenant.
2. The View could not establish a regulatory taking because Alta's revised snow-storage plan did not substantially abridge or destroy The View's protectable property interest in the use and enjoyment of lot 8.

KEY QUOTATIONS

“We accordingly hold that there are no disputed issues of material fact and that The View, not MSI, is entitled to a judgment as a matter of law with respect to the existence of the lot 5 parking covenant.” (¶ 27)

“Accordingly, even when viewed in the light most favorable to The View, the facts are insufficient to establish a regulatory taking.” (¶ 36)

“We therefore reverse the court of appeals on both issues and remand the case for further proceedings consistent with this opinion.” (¶ 37)

FACTUAL BACKGROUND

The Sugarplum development was governed by a recorded Declaration designating lot 5 as a parking facility while reserving development rights in the airspace above the lot. The developer later recorded an amended plat that changed lot boundaries and allocated units between lots 4 and 5 but did not amend the Declaration. The View acquired lot 8 and used lot 9 for overflow snow storage under an Alta-approved plan. A later settlement between MSICO and Alta removed lot 9 from the snow-storage designation and authorized construction of homes on lots 4, 5, and 9, while providing alternative snow-storage locations.

PROCEDURAL HISTORY

The View sued MSICO and the Town of Alta to prevent construction on lots 5 and 9 of the Sugarplum Planned Unit Development. The district court entered summary judgment against The View on both issues. The Utah Court of Appeals affirmed summary judgment on the lot 5 parking claim but reversed as to the lot 9 snow-

storage takings claim, finding disputed material facts. The Utah Supreme Court granted the parties' cross-petitions for certiorari, reversed the court of appeals on both issues, and remanded for entry of judgment and further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for entry of judgment in favor of Alta on the constitutional takings claim and in favor of The View on the lot 5 parking claim, subject to MSI's abandonment defense. The View's parking-related easement and estoppel claims are remanded for consideration on their merits consistent with the court of appeals' opinion.

CASES CITED

- State v. Peterson, 2005 UT 17, ¶ 8, 110 P.3d 699
- State v. Corwell, 2005 UT 28, ¶ 10, 114 P.3d 569
- State v. Dean, 2004 UT 63, ¶ 7, 95 P.3d 276
- Fairbourn Commercial, Inc. v. Am. Hous. Partners, Inc., 2004 UT 54, ¶¶ 6, 10-11, 94 P.3d 292
- Fericks v. Lucy Ann Soffe Trust, 2004 UT 85, ¶¶ 2, 10, 100 P.3d 1200
- Swenson v. Erickson, 2000 UT 16, ¶¶ 10-11, 998 P.2d 807
- Rowley v. Marrcrest Homeowners' Ass'n, 656 P.2d 414, 417 (Utah 1982)
- Flying Diamond Oil Corp. v. Newton Sheep Co., 776 P.2d 618, 620-23 (Utah 1989)
- Strawberry Elec. Serv. Dist. v. Spanish Fork City, 918 P.2d 870, 877 (Utah 1996)
- Philip Morris, Inc. v. Reilly, 312 F.3d 24, 33 (1st Cir. 2002)
- Colman v. Utah State Land Board, 795 P.2d 622, 626-27 (Utah 1990)
- Chicago, Burlington & Quincy R.R. Co. v. Chicago, 166 U.S. 226, 241 (1897)
- Bernat v. Allphin, 2005 UT 1, ¶ 38, 106 P.3d 707
- Coulter & Smith, Ltd. v. Russell, 966 P.2d 852, 856 (Utah 1998)