SUPREME COURT OF THE STATE OF IDAHO

Regan v. Owen

2017 Idaho Opinion No. 98 (Supreme Court of the State of Idaho 2017) · No. 43848 · Decided September 8, 2017

SUMMARY

The Idaho Supreme Court affirmed a judgment holding that the Regans' claimed prescriptive easement was an encumbrance extinguished when the Orphan Parcel was conveyed by tax deed under the former version of Idaho Code section 63-1009. The court held that the 2016 amendment to section 63-1009 did not apply retroactively, rejected the Regans' due process and statutory-conflict arguments, and declined to consider an unpreserved challenge to the validity of the tax deed. Costs on appeal were awarded to the Owens, but neither party received attorney's fees.

CASE DETAILS

COURT	Supreme Court of the State of Idaho
WRITING FOR THE COURT	Horton, Justice; Burdick, Chief Justice; Eismann, Justice; Brody, Justice; Jones, Justice
JURISDICTION	Idaho
DECIDED	September 8, 2017
DOCKET	43848
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Regans appealed from summary judgment entered for the Owens after remand in an action concerning an asserted prescriptive easement and a tax deed. The Idaho Supreme Court affirmed the district court's judgment.
STANDARD OF REVIEW	Summary judgment is reviewed under the same standard applied by the district court. Statutory interpretation and constitutional issues are reviewed freely as questions of law.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Brent Regan, Moura Regan v. Jeff D. Owen, Karen A. Owen

TOPICS

prescriptive easements · easements · statutory interpretation · due process · appellate procedure

PRACTICE AREAS

real estate · property law · appellate procedure · constitutional law

QUESTIONS PRESENTED

1. Whether a prescriptive easement was an encumbrance extinguished by the pre-2016 version of Idaho Code section 63-1009 when the servient parcel was sold by tax deed.
2. Whether the 2016 amendment to Idaho Code section 63-1009 applied retroactively to the tax deed and vested property rights at issue.
3. Whether the Regans were denied due process because they did not receive notice of the pending tax deed.
4. Whether Idaho Code section 55-603 conflicted with Idaho Code section 63-1009.
5. Whether the validity and legal description of the tax deed could be challenged for the first time on appeal.
6. Whether the Owens' request to combine tax assessments constituted relocation of the Regans' express easement.
7. Whether either party was entitled to attorney's fees on appeal.

HOLDINGS

1. Under the pre-2016 version of Idaho Code section 63-1009, a prescriptive easement is an encumbrance unless it is essential to the enjoyment of the servient parcel and enhances that parcel's value. Because the evidence did not show that the Regans' easement enhanced the Orphan Parcel's value, the easement was extinguished by issuance of the tax deed.
2. The 2016 amendments to Idaho Code section 63-1009 apply prospectively only and do not govern the parties' previously adjudicated ownership and prescriptive-easement rights.
3. The Regans were not entitled to individualized notice of the tax deed because they were neither record owners nor statutory parties in interest, and their claimed prescriptive easement was not readily ascertainable to the county.
4. The statutes can be harmonized: section 55-603 states the general rule that easements survive conveyances, while section 63-1009 creates the specific exception applicable to tax deeds. The specific tax-deed statute controls.
5. The Court would not consider the alleged defects in the tax deed because neither the sufficiency of its legal description nor its validity was challenged in the district court.
6. The Owens' request to combine the parcels for tax-assessment purposes did not relocate the Regans' express easement.
7. Neither party was entitled to attorney's fees because neither side made frivolous arguments. Costs on appeal were awarded to the Owens as the prevailing party.

KEY QUOTATIONS

> *“This statement does not convey with clarity the Legislature’s intent that Senate Bill 1388 be applied retroactively—which is what the law requires.”* (2017 Opinion No. 98, at 6-7)

> *“The Legislature is empowered to make laws, and this Court is empowered to interpret them.”* (2017 Opinion No. 98, at 8)

> *“This statute is constitutionally sufficient under notice standard articulated in Mennonite Board of Missions.”* (2017 Opinion No. 98, at 9)

FACTUAL BACKGROUND

The Owens purchased the Orphan Parcel from Kootenai County after a tax sale. The Regans claimed a right to drive across the parcel and asserted a prescriptive easement. Evidence showed that the Orphan Parcel was likely unbuildable, had limited utility because of an existing roadway, and lacked evidence that the Regans' claimed easement enhanced the parcel's value. The county's tax records apparently did not identify the Regans as holders of an interest in the parcel.

PROCEDURAL HISTORY

The Regans sued to reform the Owens' tax deed and establish a prescriptive easement across the Orphan Parcel. In Regan I, the Idaho Supreme Court held that the claim was not barred by limitations, rejected reformation of the deed and the district court's finding of a prescriptive easement on inadequate evidence, and remanded. On remand, the district court granted the Owens summary judgment, concluding that Idaho Code section 63-1009 extinguished any prescriptive easement upon issuance of the tax deed. During the appeal, the Legislature amended section 63-1009, but the Supreme Court held that amendment prospective only and affirmed.

DISPOSITION

affirmed

CASES CITED

- Regan v. Owen, 157 Idaho 758, 339 P.3d 1162 (2014)
- State ex rel. Industrial Commission v. Bible Missionary Church, Inc., 138 Idaho 847, 849, 70 P.3d 685, 687 (2003)
- Silicon International Ore, LLC v. Monsanto Co., 155 Idaho 538, 544, 314 P.3d 593, 599 (2013)
- Insight, LLC v. Gunter, 154 Idaho 779, 783, 302 P.3d 1052, 1056 (2013)
- Brewer v. La Crosse Health & Rehab, 138 Idaho 859, 862, 71 P.3d 458, 461 (2003)
- Hunt v. Bremer, 47 Idaho 490, 494, 276 P. 964, 965 (1929)
- Idaho Youth Ranch, Inc. v. Ada County Board of Equalization, 157 Idaho 180, 184-85, 335 P.3d 25, 29-30 (2014)
- Urrutia v. Blaine County, 134 Idaho 353, 359, 2 P.3d 738, 744 (2000)
- Schoorl v. Lankford, 161 Idaho 628, 629, 389 P.3d 173, 174 (2017)
- Bank Markazi v. Peterson, 136 S. Ct. 1310, 1324-25 (2016)

- Landgraf v. USI Film Products, 511 U.S. 244, 266-68 (1994)
- United States v. Brown, 381 U.S. 437, 456-62 (1965)
- Usery v. Turner Elkhorn Mining Co., 428 U.S. 1, 17 (1976)
- Guzman v. Piercy, 155 Idaho 928, 938, 318 P.3d 318, 928 (2014)
- Kent v. Idaho Public Utilities Commission, 93 Idaho 618, 621, 469 P.2d 745, 748 (1970)
- Nebeker v. Piper Aircraft Corp., 113 Idaho 609, 614, 747 P.2d 18, 23 (1987)
- State v. Leary, 160 Idaho 349, 353, 373 P.3d 404, 408 (2016)
- Holly Care Center v. State Department of Employment, 110 Idaho 76, 82, 714 P.2d 45, 51 (1986)
- State v. Barnes, 55 Idaho 578, 588, 45 P.2d 293, 297 (1935)
- Mennonite Board of Missions v. Adams, 462 U.S. 791, 799-800 (1983)
- Backman v. Lawrence, 147 Idaho 390, 396, 210 P.3d 75, 81 (2009)
- Fuquay v. Low, 162 Idaho 373, 377, 397 P.3d 1132, 1136 (2017)
- Christensen v. West, 92 Idaho 87, 88, 90-91, 437 P.2d 359, 360, 362-63 (1968)
- Row v. State, 135 Idaho 573, 580, 21 P.3d 895, 902 (2001)
- Hoffer v. Shappard, 160 Idaho 868, 883, 380 P.3d 681, 696 (2016)
- Suitts v. First Security Bank of Idaho, 110 Idaho 15, 21, 713 P.2d 1374, 1380 (1985)
- Fiscus v. Beartooth Electric Cooperative, Inc., 180 Mont. 434, 591 P.2d 196, 197 (1979)
- Frazier v. Neilsen & Co., 118 Idaho 104, 106, 794 P.2d 1160, 1162 (Ct. App. 1990)
- Ada County Highway District v. Brooke View, Inc., 162 Idaho 138, 142, 395 P.3d 357, 361 (2017)
- Hoffer v. Callister, 137 Idaho 291, 294, 47 P.3d 1261, 1264 (2002)
- Engel v. Catucci, 197 F.2d 597, 599-600 (D.C. Cir. 1952)