

SUPREME COURT OF CALIFORNIA

Villa De Las Palmas Homeowners Ass'n v. Terifaj

33 Cal. 4th 73, 14 Cal. Rptr. 3d 67, 90 P.3d 1223 (2004) · No. S109123 · Decided June 14, 2004

SUMMARY

The California Supreme Court held that use restrictions added to a common interest development's declaration through a properly adopted and recorded amendment bind homeowners who purchased their units before the amendment. The court further held that such restrictions are enforceable under California Civil Code section 1354 unless unreasonable and receive the presumptive-reasonableness standard established in *Nahrstedt v. Lakeside Village Condominium Association*. The court also upheld the homeowners association's attorney-fee award.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of California                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| WRITING FOR THE COURT | Moreno, J.; George, C.J.; Kennard, J.; Baxter, J.; Werdegar, J.; Chin, J.; Brown, J.                                                                                                                                                                                                                                                                                                                                                                                       |
| JURISDICTION          | California                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| DECIDED               | June 14, 2004                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| DOCKET                | S109123                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| PROCEDURAL POSTURE    | The homeowners association sued to enforce a no-pet restriction and sought injunctive and declaratory relief, nuisance remedies, and attorney fees. After the association amended and recorded the declaration to add the no-pet restriction, the trial court entered judgment for the association, issued a permanent injunction, found a nuisance, and awarded \$15,000 in attorney fees. The Court of Appeal affirmed, and the California Supreme Court granted review. |
| STANDARD OF REVIEW    | Statutory interpretation was reviewed de novo. The reasonableness of the recorded restriction was evaluated under the deferential <i>Nahrstedt</i> standard. The attorney-fee award was reviewed for abuse of discretion.                                                                                                                                                                                                                                                  |
| PRECEDENTIAL VALUE    | published and precedential California Supreme Court opinion                                                                                                                                                                                                                                                                                                                                                                                                                |
| PARTIES               | Paula Terifaj, as Trustee v. Villa De Las Palmas Homeowners Association                                                                                                                                                                                                                                                                                                                                                                                                    |

## TOPICS

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statutory interpretation

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## PRACTICE AREAS

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## QUESTIONS PRESENTED

1. Whether a use restriction added to and recorded in an amended declaration after a homeowner purchased a condominium unit binds that existing homeowner.
2. Whether Civil Code section 1354, subdivision (a), permits enforcement by equitable relief of restrictions added to an amended declaration.
3. Whether the Nahrstedt presumption of reasonableness applies to use restrictions adopted and recorded after the challenging homeowner's purchase.
4. Whether the recorded no-pet restriction was unreasonable as a matter of law.
5. Whether the trial court abused its discretion by awarding the homeowners association attorney fees.

## HOLDINGS

1. A use restriction added to a declaration under Civil Code section 1355, subdivision (b), and duly adopted and recorded binds all homeowners, including those who acquired their units before the amendment and those who did not vote for it.
2. Civil Code section 1354, subdivision (a), applies to covenants and restrictions contained in amended declarations, and those restrictions may be enforced against homeowners through equitable remedies, including injunctive relief, unless unreasonable.
3. Use restrictions adopted and recorded after a homeowner's purchase receive the same judicial deference as restrictions in an original declaration: they are presumptively valid, and the challenging homeowner bears the burden of proving that they are unreasonable.
4. The recorded no-pet restriction was not unreasonable as a matter of law, and the trial court did not abuse its discretion in awarding the Association \$15,000 in attorney fees as the prevailing party.

## KEY QUOTATIONS

*"We conclude that under the plain and unambiguous language of sections 1354, subdivision (a), and 1355, subdivision (b), use restrictions in amended declarations recorded subsequent to a challenging homeowner's purchase of a condominium unit are binding on that homeowner, are enforceable via injunctive relief under section 1354, subdivision (a), and are entitled to the same judicial deference given use restrictions recorded prior to the homeowner's purchase."* (68-69)

*"Plainly read, any amendment duly adopted under this subdivision is effective against all homeowners, irrespective of when the owner acquired title to the separate interest or whether the homeowner voted for the amendment."* (72)

*“Only if the covenant or restriction in question is unreasonable will it be unenforceable under section 1354(a).” (76)*

*“Applying the deferential Nahrstedt standard of review to the Amended Declaration in this case, we hold, as we did in Nahrstedt, that the recorded restriction prohibiting pets is not unreasonable as a matter of law.” (80)*

## FACTUAL BACKGROUND

Villa De Las Palmas is a 24-unit condominium development governed by recorded covenants, conditions, and restrictions. Paula Terifaj purchased her unit in 1995, knew of an existing no-pet rule, and nevertheless brought dogs to the property. In January 2000, the homeowners association adopted and recorded an amended declaration expressly prohibiting pets, after which the trial court enjoined Terifaj from violating the restriction and awarded the Association attorney fees.

## PROCEDURAL HISTORY

The Association filed its original complaint in August 1999 based on an unrecorded no-pet rule. The trial court denied a preliminary injunction and ordered nonbinding arbitration. During that period, the Association adopted and recorded an amended declaration containing a no-pet restriction, then filed an amended complaint. After a bench trial, the trial court ruled for the Association on all causes of action. The Court of Appeal affirmed, and the Supreme Court affirmed the Court of Appeal.

## DISPOSITION

affirmed

## CASES CITED

- Nahrstedt v. Lakeside Village Condominium Ass'n, 8 Cal. 4th 361, 33 Cal. Rptr. 2d 63, 878 P.2d 1275 (1994)
- Peracchi v. Superior Court, 30 Cal. 4th 1245, 135 Cal. Rptr. 2d 639, 70 P.3d 1054 (2003)
- Smith v. Rae-Venter Law Group, 29 Cal. 4th 345, 127 Cal. Rptr. 2d 516, 58 P.3d 367 (2002)
- Villa Milano Homeowners Ass'n v. Il Davorge, 84 Cal. App. 4th 819, 827, 102 Cal. Rptr. 2d 1 (2000)
- Citizens for Covenant Compliance v. Anderson, 12 Cal. 4th 345, 47 Cal. Rptr. 2d 898, 906 P.2d 1314 (1995)
- Lamden v. La Jolla Shores Clubdominium Homeowners Ass'n, 21 Cal. 4th 249, 264, 87 Cal. Rptr. 2d 237, 980 P.2d 940 (1999)
- Hidden Harbour Estates v. Basso, 393 So. 2d 637, 639-640 (Fla. Dist. Ct. App. 1981)
- Noble v. Murphy, 612 N.E.2d 266, 270 (Mass. App. Ct. 1993)
- Jarrow Formulas, Inc. v. LaMarche, 31 Cal. 4th 728, 736, 3 Cal. Rptr. 3d 636, 74 P.3d 737 (2003)
- California Fed. Sav. & Loan Ass'n v. City of Los Angeles, 11 Cal. 4th 342, 349, 45 Cal. Rptr. 2d 279, 902 P.2d 297 (1995)
- Rancho Santa Fe Ass'n v. Dolan-King, 115 Cal. App. 4th 28, 38, 46, 8 Cal. Rptr. 3d 614 (2004)
- Castro v. Superior Court, 116 Cal. App. 4th 1010, 1020, 10 Cal. Rptr. 3d 865 (2004)

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