

SUPREME COURT OF VERMONT

Island Industrial, LLC v. Town of Grand Isle

2021 VT 49 · No. No. 2020-273 · Decided July 2, 2021

SUMMARY

The Vermont Supreme Court affirmed judgment on the pleadings for the Town of Grand Isle in a dispute over the proposed acceptance of a private road as a public road. The court held that the selectboard's 2016 motion did not constitute unequivocal acceptance and therefore did not impose a ministerial duty enforceable by mandamus. The court also held that the trial court properly considered the Rule 12(c) motion without converting it into a summary-judgment motion.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Carroll, J.; Reiber, C.J.; Robinson, J.; Eaton, J.; Cohen, J.
JURISDICTION	Vermont
DECIDED	July 2, 2021
DOCKET	No. 2020-273
DISPOSITION	affirmed
PROCEDURAL POSTURE	Island Industrial appealed a Superior Court, Grand Isle Unit, Civil Division decision granting the Town's motion for judgment on the pleadings in a Rule 75 proceeding seeking mandamus relief.
STANDARD OF REVIEW	The grant of judgment on the pleadings is reviewed de novo. A Rule 12(c) motion is proper when, assuming the pleaded facts and reasonable inferences are true, the movant is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Island Industrial, LLC v. Town of Grand Isle

TOPICS

[motion for judgment on the pleadings](#) [municipal law](#) [remedies](#) [standard of review](#) [appellate procedure](#)

PRACTICE AREAS

[municipal law](#) [administrative law](#) [civil procedure](#) [appellate procedure](#) [remedies](#)

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by considering the Town's motion for judgment on the pleadings rather than the previously filed summary-judgment motion.
2. Whether the trial court was required to convert the Rule 12(c) motion into a summary-judgment motion because matters outside the pleadings were presented.
3. Whether the complaint alleged facts establishing a clear ministerial duty requiring the Town to accept Island Circle as a public road.
4. Whether the Town's rescission of the 2016 motion constituted an arbitrary abuse of power permitting mandamus relief.
5. Whether promissory estoppel required enforcement of the Town's 2016 motion through mandamus.

HOLDINGS

1. The trial court did not abuse its discretion by considering the timely motion for judgment on the pleadings because it could efficiently dispose of the case based on the pleadings and no abuse of discretion or prejudice was shown.
2. The motion for judgment on the pleadings was not converted into a summary-judgment motion because the trial court disregarded the extrinsic materials and ruled solely on the pleadings.
3. The complaint did not establish a clear ministerial duty requiring the Town to accept Island Circle as a public road because the 2016 selectboard motion did not demonstrate an unequivocal intent to accept the dedication.
4. The Town's 2018 rescission did not constitute an arbitrary abuse of power because the 2016 motion imposed no affirmative legal duty to accept the road and the Town retained discretion regarding acceptance.
5. Island Industrial was not entitled to mandamus relief based on promissory estoppel because reliance damages were an available remedy, so enforcement of the alleged promise was not the only means of avoiding injustice.

KEY QUOTATIONS

“The inquiry is whether the court considered matters outside the pleadings in ruling on the Rule 12(c) motion.” (¶ 18)

“Mandamus is a command from the court to an official, agency, or lower tribunal to perform a simple and definite ministerial duty imposed by law.” (¶ 21)

“Acceptance requires an unequivocal intent to accept “coupled with some affirmative act of acceptance on behalf of the town.”” (¶ 28)

“The 2016 selectboard motion, by its express terms, does not demonstrate an unequivocal intent to accept Island Circle as a public road.” (¶ 33)

FACTUAL BACKGROUND

Island Industrial constructed Island Circle, a private road serving a subdivision, and in 2014 petitioned the Town of Grand Isle to accept it as a public road. In 2016, after reviewing engineering materials, the selectboard voted to accept the road after a two-year period to evaluate its performance during winter conditions and directed counsel to work toward amending an earlier agreement. Island Industrial then made an irrevocable offer of dedication and prepared deeds, but the Town later rescinded the 2016 motion, citing maintenance costs, safety concerns, and limited municipal benefits. Island Industrial sought mandamus relief, asserting that the Town had accepted the road, had arbitrarily rescinded its decision, and was bound by promissory estoppel.

PROCEDURAL HISTORY

Island Industrial petitioned the Town to accept a privately constructed road as a public road. After the Town selectboard rescinded a 2016 motion to accept the road, Island Industrial appealed under Vermont Rule of Civil Procedure 75 and sought a writ of mandamus. The Town filed motions for summary judgment and judgment on the pleadings. The trial court considered the Rule 12(c) motion, disregarded matters outside the pleadings, and granted judgment for the Town. The Vermont Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Kaplan v. Morgan Stanley & Co., 2009 VT 78, ¶ 10 n.4, 186 Vt. 605, 987 A.2d 258 (mem.)
- State v. Gurung, 2020 VT 108, ¶ 17 n.5
- State v. Therrien, 140 Vt. 625, 627, 442 A.2d 1299, 1301 (1982) (per curiam)
- Doyle v. City of Burlington Police Dep't, 2019 VT 66, ¶ 4, 211 Vt. 10, 219 A.3d 326
- Messier v. Bushman, 2018 VT 93, ¶ 9, 208 Vt. 261, 197 A.3d 882
- Thayer v. Herdt, 155 Vt. 448, 456, 586 A.2d 1122, 1126 (1990)
- Graham v. Springfield Vt. Sch. Dist., 2005 VT 32, ¶ 6, 178 Vt. 515, 872 A.2d 351
- CVR Energy, Inc. v. Wachtell, Lipton, Rosen, & Katz, 830 F. App'x 330, 333 n.2 (2d Cir. 2020)
- Grajales v. P.R. Ports Auth., 682 F.3d 40, 46 (1st Cir. 2012)
- Nash v. Coxon, 152 Vt. 313, 314-15, 565 A.2d 1360, 1361 (1989)
- Skiff v. S. Burlington Sch. Dist., 2018 VT 117, ¶ 2 n.1, 208 Vt. 564, 201 A.3d 969
- Powers v. Off. of Child Support, 173 Vt. 390, 395, 795 A.2d 1259, 1263 (2002)
- Montague v. Hundred Acre Homestead, LLC, 2019 VT 16, ¶¶ 10-12, 209 Vt. 514, 208 A.3d 609
- Wool v. Off. of Pro. Regulation, 2020 VT 44, ¶ 18, 236 A.3d 1250
- Wool v. Menard, 2018 VT 23, ¶ 11, 207 Vt. 25, 185 A.3d 577
- Ahern v. Mackey, 2007 VT 27, ¶ 8, 181 Vt. 599, 925 A.2d 1011 (mem.)
- Inman v. Pallito, 2013 VT 94, ¶¶ 14-17, 195 Vt. 218, 87 A.3d 449
- Ass'n of Haystack Prop. Owners, Inc. v. Sprague, 145 Vt. 443, 446-47, 494 A.2d 122, 125 (1985)
- Colby v. Umbrella, Inc., 2008 VT 20, ¶¶ 5 n.1, 13, 184 Vt. 1, 955 A.2d 1082

- Mahoney v. Tara, LLC, 2014 VT 90, ¶ 15, 197 Vt. 412, 107 A.3d 887
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007)
- Hayes v. Mountain View Estates Homeowners Ass'n, 2018 VT 41, ¶ 26, 207 Vt. 293, 188 A.3d 678
- Town of S. Hero v. Wood, 2006 VT 28, ¶ 10, 179 Vt. 417, 898 A.2d 756
- Kirkland v. Kolodziej, 2015 VT 90, ¶ 35, 199 Vt. 606, 128 A.3d 407
- Gardner v. Town of Ludlow, 135 Vt. 87, 90, 369 A.2d 1382, 1384 (1977)
- Smith v. Town of Derby, 170 Vt. 553, 554-55, 742 A.2d 757, 759 (1999) (mem.)
- Chrysler Corp. v. Makovec, 157 Vt. 84, 89-91, 596 A.2d 1284, 1287-88 (1991)
- Green Mountain Inv. Corp. v. Flaim, 174 Vt. 495, 497, 807 A.2d 461, 464 (2002) (mem.)
- Nelson v. Town of Johnsbury Selectboard, 2015 VT 5, ¶ 56, 198 Vt. 277, 115 A.3d 423
- Tour Costa Rica v. Country Walkers, Inc., 171 Vt. 116, 123-24, 758 A.2d 795, 801-02 (2000)