

SUPREME COURT OF RHODE ISLAND

Virginia B. Kinder, individually and in her capacity as Trustee of the
Virginia B. Kinder Trust v. Jil Westcott et al.

Kinder v. Westcott · No. No. 2014-5-Appeal (PC 12-4718) · Decided January 12, 2015

SUMMARY

The Rhode Island Supreme Court affirmed summary judgment recognizing an express easement appurtenant over the plaintiff’s property. The Court held that the recorded instrument’s references to the grantee’s heirs and assigns, together with its statement that the easement was appurtenant to the land, made the easement freely assignable and running with the land.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Maureen McKenna Goldberg, Associate Justice; Frank Williams Suttell, Chief Justice; Maureen McKenna Goldberg, Justice; Francis X. Flaherty, Justice; William P. Robinson III, Justice; Gilbert V. Indeglia, Justice
JURISDICTION	Rhode Island
DECIDED	January 12, 2015
DOCKET	No. 2014-5-Appeal (PC 12-4718)
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from a Providence County Superior Court judgment granting defendant's motion for summary judgment and declaring that defendant had an express easement appurtenant.
STANDARD OF REVIEW	The Supreme Court reviewed the Superior Court's summary-judgment judgment de novo, applying the same standards as the trial court and viewing the evidence in the light most favorable to the nonmoving party. Summary judgment is appropriate when no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	published opinion
PARTIES	Virginia B. Kinder, individually and in her capacity as Trustee of the Virginia B. Kinder Trust v. Jil Westcott et al.

TOPICS

easements

real estate

summary judgment

standard of review

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the recorded easement instrument clearly and unambiguously created an easement appurtenant that was assignable to the owners of the dominant land.
2. Whether the alleged conflict between the granting clause and the instrument's references to the grantee's heirs and assigns created a factual ambiguity precluding summary judgment.

HOLDINGS

1. The instrument clearly and unambiguously created an easement appurtenant to the grantee's land and made the easement assignable to the grantee's heirs and assigns.
2. Summary judgment was proper because the easement instrument was clear and unambiguous, and no genuine issue of material fact required resolution by a factfinder.

KEY QUOTATIONS

“However, when the provisions of a written agreement are clear and unambiguous, such provisions “can be interpreted and applied to the undisputed facts as a matter of law” and “neither oral testimony nor extrinsic evidence will be received to explain the nature or extent of the rights acquired.”” (at 5)

“In fact, because the definition of grantee also embraced the grantee’s “heirs and assigns,” repeating the terms in the granting clause would amount to surplusage.” (at 6)

FACTUAL BACKGROUND

In 1961, Ralph F. Kinder and Virginia B. Kinder executed an instrument granting Joseph C. Kinder a sixteen-foot right-of-way across portions of lots 6 and 9 to provide access from lot 15 to Poppasquash Road. The instrument defined the grantee to include his executors, administrators, heirs, and assigns, and stated that the easement was to be held as appurtenant to the grantee's lands. After Joseph's death, his family and estate continued using the right-of-way, and the property was eventually conveyed to Jil Westcott, who used the easement to access her property. Virginia B. Kinder later demanded that Westcott cease using the right-of-way and filed an action to quiet title and recover trespass damages.

PROCEDURAL HISTORY

The plaintiff filed an action seeking a declaratory judgment to quiet title to a right-of-way and damages for trespass. The defendant counterclaimed that her right of access arose from an instrument expressly granting an easement appurtenant and moved for summary judgment. The Superior Court granted summary judgment for

defendant, and the Rhode Island Supreme Court affirmed after directing the parties to show cause why the appeal should not be summarily decided.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The papers were remanded to the Superior Court.

CASES CITED

- Hazard v. East Hills, Inc., 45 A.3d 1262, 1268 (R.I. 2012)
- Tavares ex rel. Guterrez v. Barbour, 790 A.2d 1110, 1112 (R.I. 2002)
- Long v. Dell, Inc., 93 A.3d 988, 995-96 (R.I. 2014)
- Sullo v. Greenberg, 68 A.3d 404, 406 (R.I. 2013)
- Sola v. Leighton, 45 A.3d 502, 506 (R.I. 2012)
- Pelletier v. Laureanno, 46 A.3d 28, 35-36 (R.I. 2012)
- Ondis v. City of Woonsocket ex rel. Treasurer Touzin, 934 A.2d 799, 803 (R.I. 2007)
- Carpenter v. Hanslin, 900 A.2d 1136, 1147 (R.I. 2006)
- Bradish v. Sullivan, 54 R.I. 434, 440, 173 A. 117, 119 (1934)
- Mattos v. Seaton, 839 A.2d 553, 557 (R.I. 2004)
- Thomas v. Ross, 119 R.I. 231, 240, 376 A.2d 1368, 1373 (1977)