

SUPREME COURT OF NORTH DAKOTA

The Next Step v. Redmon

2016 ND 85 (N.D. 2016) · No. 20150333 · Decided May 26, 2016

SUMMARY

The North Dakota Supreme Court affirmed dismissal of The Next Step’s quiet title action. The Court held that unincorporated associations generally cannot hold title to real property because they are not legal entities, and it declined to apply exceptions based on ascertainable membership or charitable trusts to the quitclaim deed at issue. The Court concluded that the district court properly dismissed the action.

CASE DETAILS

|                       |                                                                                                                                                                                                        |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of North Dakota                                                                                                                                                                          |
| WRITING FOR THE COURT | Carol Ronning Kapsner, Justice; Carol Ronning Kapsner; Lisa Fair McEvers; Daniel J. Crothers; Dale V. Sandstrom; Gerald W. VandeWalle, Chief Justice                                                   |
| JURISDICTION          | North Dakota                                                                                                                                                                                           |
| DECIDED               | May 26, 2016                                                                                                                                                                                           |
| DOCKET                | 20150333                                                                                                                                                                                               |
| DISPOSITION           | affirmed                                                                                                                                                                                               |
| PROCEDURAL POSTURE    | The Next Step appealed from a judgment dismissing its quiet title action after the district court determined that an unincorporated association could not hold title to real property in North Dakota. |
| STANDARD OF REVIEW    | Whether the district court properly granted summary judgment is a question of law reviewed de novo on the entire record.                                                                               |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                         |
| PARTIES               | The Next Step v. Jamie Redmon                                                                                                                                                                          |

TOPICS

- title disputes
- quiet title
- real estate
- summary judgment
- appellate procedure

PRACTICE AREAS

- real estate
- civil procedure
- appellate procedure

## QUESTIONS PRESENTED

1. Whether an unincorporated association is capable of holding title to real property in North Dakota.
2. Whether North Dakota should recognize an exception allowing title to property conveyed to an unincorporated association to vest in ascertainable members or be held in trust for the association.
3. Whether *Askew v. Joachim Memorial Home* abrogated the common-law prohibition against unincorporated associations holding title to real property.

## HOLDINGS

1. An unincorporated association is incapable of holding title to real property in North Dakota because it is not a legal entity, unless a recognized exception applies.
2. *Askew* did not abrogate the prohibition against unincorporated associations holding title to real property; it created an equitable estoppel exception concerning whether an association may be sued when it holds itself out as a legal entity.
3. The court declined to adopt or apply an ascertainable-beneficiary exception because *The Next Step* did not identify its members, trustees, membership requirements, or the individuals authorized to bind the association.
4. The *cy pres* exception for charitable transfers to unincorporated associations does not apply to this *inter vivos* quitclaim deed, which did not express a charitable purpose.

## KEY QUOTATIONS

*“Absent the exceptions discussed below, unincorporated associations are incapable of holding title to real property because they are not legal entities.”* (§ 4)

*“Askew did not abrogate the common law’s prohibition on unincorporated associations holding title to real property.”* (§ 6)

*“Unincorporated associations are not legal entities; unless an association can establish an exception applies, it is incapable of holding title to real property.”* (§ 12)

## FACTUAL BACKGROUND

The Next Step, an unincorporated association, and Jamie Redmon each claimed title to residential property in Minot through competing quitclaim deeds allegedly executed by the prior owner. The Next Step received a deed dated in 2009 and recorded in 2014, while Redmon received a deed dated and recorded in 2013. Redmon alleged that the deed to The Next Step was forged, but the district court dismissed the quiet title action after concluding that The Next Step could not hold title to real property because it was an unincorporated association.

## PROCEDURAL HISTORY

The Next Step moved for summary judgment in a dispute involving competing quitclaim deeds to residential property. The district court requested supplemental briefing on whether an unincorporated association could hold title to real property and then dismissed the action, ruling that such associations are incapable of holding title. The North Dakota Supreme Court affirmed.

## DISPOSITION

affirmed

## CASES CITED

- Hamilton v. Woll, 2012 ND 238, ¶ 9, 823 N.W.2d 754
- Winchell v. Montana Department of State Lands, 865 P.2d 249, 252-53 (Mont. 1993)
- Rock Creek Gardens Tenants Ass'n v. Ferguson, 404 A.2d 972, 973 (D.C. 1979)
- Askew v. Joachim Mem. Home, 234 N.W.2d 226, 230-36 (N.D. 1975)
- Edwards v. Burke, 102 P.3d 1271, 1275 (Mont. 2004)
- Motta v. Samuel Weiser, Inc., 768 F.2d 481, 486 (1st Cir. 1985)
- Byam v. Bickford, 140 Mass. 31, 2 N.E. 687 (1885)
- State v. Sunbeam Rebekah Lodge No. 180, 169 Or. 253, 127 P.2d 726 (1942)
- Estate of Anderson, 571 P.2d 880, 882-83 (Okla. Civ. App. 1977)
- Piper v. Taylor, 48 N.D. 967, 188 N.W. 171 (1922)
- In re Andrejevich's Estate, 57 N.Y.S.2d 86, 87 (1945)