

DISTRICT COURT OF APPEAL OF FLORIDA, SECOND DISTRICT

Matissek v. Waller

51 So. 3d 625 (Fla. 2d DCA 2011) · No. No. 2D09-2250 · Decided January 14, 2011

SUMMARY

The Florida Second District Court of Appeal held that the Marketable Record Titles to Real Property Act extinguished both the original and amended deed restrictions governing the appellants' property in Hidden Lakes Estates. Because the restrictions were not preserved through specific identification in the chain of title or otherwise exempted under the statute, the court reversed the judgment requiring modification or removal of an airplane hangar and remanded for entry of summary judgment in favor of the appellants.

CASE DETAILS

COURT	District Court of Appeal of Florida, Second District
WRITING FOR THE COURT	Crenshaw; Altenbernd; Khouzam
JURISDICTION	Florida
DECIDED	January 14, 2011
DOCKET	No. 2D09-2250
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Homeowners appealed a final judgment entered after trial that required them to bring an airplane hangar into compliance with deed restrictions. They challenged the denial of their motion for summary judgment, arguing that the Marketable Record Titles to Real Property Act extinguished the restrictions.
STANDARD OF REVIEW	De novo review of an order granting or denying a motion for summary judgment.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Joseph Gerhard Matissek, Kelly Beth Matissek v. Roland D. Waller

TOPICS

title disputes covenants and restrictions statutory interpretation summary judgment appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Marketable Record Titles to Real Property Act extinguished the original 1971 deed restrictions on the Matisseks' property.
2. Whether the 1977 amended restrictions were preserved from extinguishment under the exceptions to the Marketable Record Titles to Real Property Act or otherwise applied to the property.

HOLDINGS

1. The 1971 restrictions were extinguished because the 1974 indenture was the root of title and did not specifically identify the title transaction imposing the restrictions by book and page or by the name of the recorded plat imposing them.
2. The 1977 amended restrictions were also extinguished because they did not constitute muniments of title or title transactions qualifying for the section 712.03 exceptions, and they were recorded outside the chain of title.
3. The Matisseks were entitled to final summary judgment declaring that they held marketable record title free and clear of the earlier restrictions.

KEY QUOTATIONS

“We find the MRTA did extinguish these restrictions, and therefore the Matisseks have a free and clear, marketable record title to their property.” (at 625)

“The 1977 amendments address revisions to the 1971 restrictions and do not concern a chain of title to any property, let alone the Matisseks' property.” (at 630)

“Therefore, we find the circuit court erred by denying the Matisseks' motion for summary judgment as a matter of law because the MRTA extinguished the original 1971 restrictions and 1977 amended restrictions placed upon the Matisseks' property.” (at 631)

FACTUAL BACKGROUND

Hidden Lakes Estates, Inc. recorded deed restrictions in 1971 for an airpark community, including a requirement that all buildings be constructed of masonry or similar materials. It recorded amendments to those restrictions in 1977. The Matisseks acquired a lot and part of another lot in 1995 by a warranty deed that did not mention the restrictions, and in 2007 Joseph Matissek began constructing a steel airplane hangar. Waller sued to enforce the masonry restriction, and the circuit court ordered the Matisseks to remove or modify the hangar.

PROCEDURAL HISTORY

Waller filed an action seeking a mandatory injunction requiring removal or modification of the Matisseks' airplane hangar. The circuit court denied the Matisseks' summary-judgment motion, conducted a trial, found that the Marketable Record Titles to Real Property Act extinguished the 1971 restrictions but not the 1977 amended

restrictions, and entered final judgment requiring compliance with the masonry restriction. The Second District reversed and remanded for entry of summary judgment for the Matisseks.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The circuit court was directed to enter a final summary judgment finding that the Matisseks had marketable record title to their property free and clear of HLEI's earlier restrictions.

CASES CITED

- Shaw v. Tampa Elec. Co., 949 So. 2d 1066, 1069 (Fla. 2d DCA 2007)
- Deep S. Sys., Inc. v. Heath, 843 So. 2d 378, 379 (Fla. 2d DCA 2003)
- Blanton v. City of Pinellas Park, 887 So. 2d 1224, 1227 (Fla. 2004)
- Sunshine Vistas Homeowners Ass'n v. Caruana, 623 So. 2d 490, 491-92 (Fla. 1993)
- Martin v. Town of Palm Beach, 643 So. 2d 112, 114 (Fla. 4th DCA 1994)
- Sunshine Vistas Homeowners Ass'n v. Caruana, 623 So. 2d 490
- Berger v. Riverwind Parking, LLP, 842 So. 2d 918, 918-22 (Fla. 5th DCA 2003)
- Cunningham v. Haley, 501 So. 2d 649, 652-53 (Fla. 5th DCA 1986)