

SUPREME COURT OF NEW JERSEY

Luchejko v. City of Hoboken, 207 N.J. 191

23 A.3d 912 (2011) · No. A-38, September Term 2010, 066580 · Decided July 27, 2011

SUMMARY

The Supreme Court of New Jersey affirmed summary judgment for a condominium association and its property manager in a pedestrian’s sidewalk-ice negligence action. The Court held that the overwhelmingly owner-occupied condominium complex was residential rather than commercial, and therefore was not subject to the duty imposed on commercial property owners to maintain abutting public sidewalks. The Court also reaffirmed the longstanding distinction between residential and commercial property for sidewalk liability purposes.

CASE DETAILS

COURT	Supreme Court of New Jersey
WRITING FOR THE COURT	Justice LaVecchia; Chief Justice Rabner; Justice Rivera-Soto; Justice Hoens; Justice Long; Justice Albin
JURISDICTION	New Jersey
DECIDED	July 27, 2011
DOCKET	A-38, September Term 2010, 066580
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed after the trial court granted summary judgment to Skyline, CM3, and Hoboken. The Appellate Division affirmed. The Supreme Court of New Jersey granted certification as to Skyline and CM3 only.
STANDARD OF REVIEW	Summary-judgment rulings are reviewed under the applicable summary-judgment standard; CM3’s agency status was a legal question reviewed de novo.
PRECEDENTIAL VALUE	Published New Jersey Supreme Court majority opinion; precedential
PARTIES	Richard Luchejko v. The City of Hoboken, CM3 Management Company, Skyline Condominium Association, D & D Snow Plowing Company

TOPICS

premises liability

negligence

duty of care

municipal law

real estate

PRACTICE AREAS

torts

premises liability

municipal law

real estate

negligence

QUESTIONS PRESENTED

1. Whether a predominantly owner-occupied, nonprofit 104-unit condominium complex is a commercial property subject to tort liability for injuries caused by the negligent maintenance of an abutting public sidewalk.
2. Whether CM3 Management Company, the condominium association's property manager, owed an independent duty to the plaintiff based on its relationship with the association and its role in arranging snow-removal services.

HOLDINGS

1. A predominantly owner-occupied condominium complex restricted to private residential use is residential property for purposes of New Jersey's commercial-residential sidewalk-liability doctrine and therefore is not subject to tort liability for injuries caused by the failure to maintain an abutting public sidewalk.
2. CM3 was Skyline's agent rather than an independent contractor, and because Skyline owed no sidewalk-maintenance duty to the plaintiff, CM3 likewise owed no such duty on the undisputed facts.

KEY QUOTATIONS

"In applying the commonly understood notion of residential property in today's times, we hold that Skyline is residential and therefore is not subject to sidewalk liability." (207 N.J. at 211)

"Because CM3 was Skyline's agent, it owes no duty to plaintiff since Skyline owed no such duty." (207 N.J. at 212)

FACTUAL BACKGROUND

Richard Luchejko slipped on black ice on a public sidewalk abutting a 104-unit condominium complex in Hoboken and broke his leg. The complex was overwhelmingly owner-occupied, units were restricted to private residential use, there was no retail space, and the condominium association operated without profit. The association hired a management company, which contracted with a snow-removal company; the snow-removal company serviced the property after a snowfall but did not reinspect before Luchejko's fall.

PROCEDURAL HISTORY

Luchejko sued the condominium association, its management company, Hoboken, and a snow-removal contractor after slipping on ice on a public sidewalk abutting the condominium complex. The trial court granted summary judgment to Skyline, CM3, and Hoboken, but not D & D; plaintiff settled with D & D and sought

reconsideration, which was denied. The Appellate Division affirmed, and the Supreme Court affirmed the judgment as to Skyline and CM3.

DISPOSITION

affirmed

CASES CITED

- Stewart v. 104 Wallace Street, Inc., 87 N.J. 146, 432 A.2d 881 (1981)
- Mirza v. Filmore Corp., 92 N.J. 390, 456 A.2d 518 (1983)
- Dupree v. City of Clifton, 175 N.J. 449, 815 A.2d 960 (2003)
- Brown v. Saint Venantius School, 111 N.J. 325, 544 A.2d 842 (1988)
- Nash v. Lerner, 157 N.J. 535, 724 A.2d 798 (1999)
- Yanhko v. Fane, 70 N.J. 528, 362 A.2d 1 (1976)
- Fielders v. North Jersey Street Railway Co., 68 N.J.L. 343 (E. & A. 1902)
- Davis v. Pecorino, 69 N.J. 1, 350 A.2d 51 (1975)
- Saco v. Hall, 1 N.J. 377, 63 A.2d 887 (1949)
- Foley v. Ulrich, 50 N.J. 426, 236 A.2d 137 (1967)
- Baldassarre v. Butler, 132 N.J. 278, 625 A.2d 458 (1993)
- Printing Mart-Morristown v. Sharp Electronics Corp., 116 N.J. 739, 563 A.2d 31 (1989)
- Payne v. Tennessee, 501 U.S. 808, 115 L. Ed. 2d 720 (1991)
- State v. Brown, 190 N.J. 144, 919 A.2d 107 (2007)