

SUPREME COURT OF RHODE ISLAND

Joseph F. Alessi v. Bowen Court Condominium et al.

Joseph F. Alessi v. Bowen Court Condominium, 44 A.3d 736 (R.I. 2012) · No. No. 2010-436-Appeal · Decided June 4, 2012

SUMMARY

The Rhode Island Supreme Court affirmed summary judgment for Bowen Court Condominium and its association president in a dispute over whether a successor following foreclosure retained an unlimited right to withdraw real estate from the condominium. The Court held that the right was subject to the ten-year limitation in the condominium declaration and expired no later than January 11, 1999, after which the unexercised development rights passed to the unit owners' association. The Court affirmed on grounds somewhat different from those relied upon by the trial justice.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Justice Goldberg; Chief Justice Suttell; Justice Flaherty; Justice Robinson; Justice Indeglia
JURISDICTION	Rhode Island
DECIDED	June 4, 2012
DOCKET	No. 2010-436-Appeal
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a Superior Court judgment granting defendants summary judgment on the plaintiff's claim to quiet title and seeking declaratory relief concerning the right to withdraw real estate from a condominium after foreclosure.
STANDARD OF REVIEW	Summary-judgment decisions and questions of statutory interpretation are reviewed de novo. The Court views the evidence in the light most favorable to the nonmoving party and affirms when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published opinion; precedential Rhode Island Supreme Court decision.
PARTIES	Joseph F. Alessi v. Bowen Court Condominium, Janet O'Rourke, in her capacity as president of the condominium association

TOPICS

foreclosure

title disputes

quiet title

statutory interpretation

appellate procedure

PRACTICE AREAS

real estate

condominium law

property law

appellate procedure

QUESTIONS PRESENTED

1. Whether a successor in title after foreclosure retains a perpetual statutory right under R.I. Gen. Laws § 34-36.1-2.18(i) to require exclusion of withdrawable real estate from a condominium after the declarant's time-limited withdrawal right has expired.
2. Whether the foreclosure transformed the withdrawable real estate into a fee-simple interest that could be excluded from the condominium at any time.
3. Whether the Superior Court properly granted summary judgment to the condominium association on the quiet-title and declaratory-relief claim.

HOLDINGS

1. A person taking title to withdrawable real estate after foreclosure receives only the time-restricted right that the predecessor was capable of transferring; the statutory right to request exclusion does not create a perpetual right extending beyond the declaration's stated deadline.
2. Foreclosure does not transmute withdrawable real estate into fee-simple title free of the condominium's time limitation.
3. Summary judgment for the defendants was proper because the material facts were undisputed and the withdrawal right had expired before the plaintiff requested exclusion.

KEY QUOTATIONS

"We are of the opinion that a foreclosure by a mortgagee does not transmute withdrawable real estate into a title in fee simple." (44 A.3d at 742)

"An unlimited right to exclude real estate from the condominium would frustrate the justified expectations of the unit owners who reasonably relied on the ten-year limitation to the withdrawal rights set forth in the declaration." (44 A.3d at 743)

FACTUAL BACKGROUND

Bowen Court Associates created a condominium in 1989 and reserved a ten-year right to withdraw an undeveloped parcel from the condominium. The declarant mortgaged the parcel to Rhode Island Central Credit Union, which foreclosed in 1992 and transferred its interest to DEPCO; Alessi purchased DEPCO's interest in 1994. Neither the mortgagee, DEPCO, nor Alessi exercised the withdrawal right before the ten-year period expired on January 11, 1999, and Alessi first requested exclusion in 2001.

PROCEDURAL HISTORY

The plaintiff purchased from DEPCO a parcel that had been subject to a condominium declarant's ten-year right of withdrawal. The Superior Court granted defendants' cross-motion for summary judgment on the quiet-title and declaratory-relief claim, concluding that the withdrawal right had expired and title had vested in the condominium association. The plaintiff appealed. The Superior Court later conducted a bench trial on the unjust-enrichment count and ordered reimbursement of certain property taxes, while the slander-of-title count was dismissed by agreement; the present appeal concerned only the quiet-title claim.

DISPOSITION

affirmed

CASES CITED

- Greensleeves, Inc. v. Lee's Wharf Marina Association, 711 A.2d 1140, 1141-1142 (R.I. 1998)
- Lynch v. Spirit Rent-A-Car, Inc., 965 A.2d 417, 424 (R.I. 2009)
- Moore v. Rhode Island Board of Governors for Higher Education, 18 A.3d 541, 544 (R.I. 2011)
- Berman v. Sitrin, 991 A.2d 1038, 1043 (R.I. 2010)
- Waterman v. Caprio, 983 A.2d 841, 844 (R.I. 2009)
- Webster v. Perrotta, 774 A.2d 68, 75 (R.I. 2001)
- Matter of Falstaff Brewing Corp. Re: Narragansett Brewery Fire, 637 A.2d 1047, 1050 (R.I. 1994)
- Iselin v. Retirement Board of the Employees' Retirement System of Rhode Island, 943 A.2d 1045, 1049 (R.I. 2008)
- Rhode Island Depositors Economic Protection Corp. v. Mapleroot Development Corp., 710 A.2d 167, 169-170 (R.I. 1998)
- Rhode Island Depositors Economic Protection Corp. v. Bowen Court Associates, 763 A.2d 1005, 1006 (R.I. 2001)
- America Condominium Association, Inc. v. IDC, Inc., 844 A.2d 117, 131 (R.I. 2004)
- St. Jean Place Condominium Association v. DeLeo, 745 A.2d 738, 740 (R.I. 2000)
- America Condominium Association, Inc. v. IDC, Inc., 870 A.2d 434, 437, 442 (R.I. 2005)
- R & R Associates v. City of Providence Water Supply Board, 765 A.2d 432, 436 (R.I. 2001)
- United States v. Verrecchia, 196 F.3d 294, 299 (1st Cir. 1999)
- State v. Enos, 21 A.3d 326, 330-331 (R.I. 2011)
- State v. Dearmas, 841 A.2d 659, 666 (R.I. 2004)