

MASSACHUSETTS SUPREME JUDICIAL COURT

Patterson v. Paul

448 Mass. 658 (2007) · Decided March 30, 2007

SUMMARY

The Massachusetts Supreme Judicial Court held that the view easements at issue were affirmative easements and therefore were not subject to the thirty-year limitation in G. L. c. 184, § 23. The easements protected the views existing when they were created in 1999, but permitted trimming and topping beyond one year's growth when maintenance occurred less frequently than annually. The court also held that the declaratory judgment applied equally to all parties whose rights were governed by the easements.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
WRITING FOR THE COURT	Spina, J.
JURISDICTION	Massachusetts
DECIDED	March 30, 2007
DISPOSITION	affirmed
PROCEDURAL POSTURE	The plaintiffs sought declaratory and injunctive relief in the Land Court concerning the scope and duration of deed-created view easements. After the parties filed cross motions for partial summary judgment on the applicability of the thirty-year limitation in G. L. c. 184, § 23, the Land Court ruled that the easements were affirmative and not subject to that limitation. After trial on the remaining claims, both sides appealed, and the Supreme Judicial Court granted direct appellate review.
STANDARD OF REVIEW	The court interpreted the deed-created easements and reviewed the Land Court's summary judgment and declaratory judgment determinations; the opinion does not expressly state a separate standard-of-review formulation.
PRECEDENTIAL VALUE	Published Massachusetts Supreme Judicial Court opinion; precedential.
PARTIES	David D. Patterson, Deborah K. Allen v. Gertrude Nichols Paul, Katherine Nichols McGinley, A. Rives McGinley

TOPICS

easements real estate statutory interpretation declaratory judgment equitable relief

PRACTICE AREAS

real estate property law easements declaratory judgment statutory interpretation

QUESTIONS PRESENTED

1. Whether the reciprocal view easements were affirmative easements or negative easements subject to the thirty-year limitation in G. L. c. 184, § 23.
2. Whether the view easements protected only the views existing when the deeds were created in 1999 or instead authorized removal of vegetation to create completely unobstructed views.
3. Whether the easements limited trimming and topping to vegetation growth occurring during the preceding year.
4. Whether the declaratory judgment defining the rights and obligations under the view easements applied equally to all parties.

HOLDINGS

1. The view easements were affirmative easements because they expressly granted the holders the right to enter the servient estate and trim and top vegetation. They therefore were not restrictions on the use of land subject to the thirty-year limitation in G. L. c. 184, § 23.
2. The easements protected the views that existed in April 1999, when the deeds were created. They authorized trimming and topping to preserve those views, but did not authorize wholesale removal of vegetation to create a better or completely unobstructed view.
3. The easements did not limit trimming and topping to vegetation growth occurring during the preceding year. The work could occur once per calendar year, but it was not required to occur annually and, if performed after several years, could address the accumulated growth necessary to preserve the 1999 views.
4. The declarations concerning the rights and obligations under the view easements applied equally to the plaintiffs and defendants because the easements imposed the same operative provisions on all parties.

KEY QUOTATIONS

“the view easements in this case are affirmative easements not limited in duration to thirty years, that the easements protect only such views as existed when the easements were created in 1999, that the trimming and topping of vegetation to maintain the views as they existed in 1999 need not be performed every year and, as such, is not limited to one year’s prior growth, and that declaratory judgment as to the rights and obligations of the parties under the view easements applies with equal force to all of the parties.” (658-659)

“The purpose and effect of the view easements are not simply to limit the uses that the plaintiffs can make of their own property.” (664)

“The defendants simply have not been vested with the right to change the appearance and condition of the servient estate as it existed when the easements were created; they merely can ameliorate the effects of ongoing vegetational growth to preserve their original views.” (667)

FACTUAL BACKGROUND

The parties owned three adjoining Orleans lots that had once been part of a single parcel. Deeds recorded in 1999 created reciprocal view easements allowing the owners to trim and top vegetation and prohibiting structures in specified areas. After the plaintiffs planted vegetation along their boundary, Gertrude Nichols Paul notified them that she intended to trim the plantings, prompting the dispute over the easements' duration, scope, and maintenance limits.

PROCEDURAL HISTORY

The Land Court granted the defendants' motion for partial summary judgment and denied the plaintiffs' cross motion on whether G. L. c. 184, § 23, limited the easements to thirty years. Following trial, the Land Court limited the easements to views existing in 1999 and limited trimming and topping to one year's prior growth. The parties filed cross appeals. The Supreme Judicial Court affirmed the judgment, except that it removed the one-year-growth limitation when trimming occurred less frequently than annually and clarified that the declarations applied equally to all parties.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The amended judgment was affirmed with amendments: remove the restriction allowing only one year's prior growth when defendants trim and top less frequently than once a year, and clarify that enumerated paragraphs 1, 3, 5, and 6 apply equally to the plaintiffs.

CASES CITED

- Stop & Shop Supermarket Co. v. Urstadt Biddle Props., Inc., 433 Mass. 285, 288, 290 (2001)
- Ward v. Prudential Ins. Co., 299 Mass. 559, 565 (1938)
- Labounty v. Vickers, 352 Mass. 337, 347-348 (1967)
- Myers v. Salin, 13 Mass. App. Ct. 127, 135-136 (1982)
- Sheftel v. Lebel, 44 Mass. App. Ct. 175, 179 (1998)
- Suburban Land Co. v. Billerica, 314 Mass. 184, 189 (1943)
- Barchenski v. Pion, 9 Mass. App. Ct. 896 (1980)
- McLaughlin v. Selectmen of Amherst, 422 Mass. 359, 364 (1996)
- Mugar v. Massachusetts Bay Transp. Auth., 28 Mass. App. Ct. 443, 444 (1990)
- J.S. Lang Eng'g Co. v. Wilkins Potter Press, 246 Mass. 529, 532 (1923)
- Hewitt v. Perry, 309 Mass. 100, 105 (1941)

- *Butler v. Haley Greystone Corp.*, 352 Mass. 252, 258 (1967)
- *Merry v. Priest*, 276 Mass. 592, 600 (1931)
- *Desotell v. Szczygiel*, 338 Mass. 153, 159 (1958)
- *Kilroy v. O'Connor*, 324 Mass. 238, 242 (1949)
- *School Comm. of Cambridge v. Superintendent of Schs. of Cambridge*, 320 Mass. 516, 518 (1946)
- *Board of Appeals of Rockport v. DeCarolis*, 32 Mass. App. Ct. 348, 353 (1992)

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