

COURT OF APPEALS OF MARYLAND

Elvaton Towne Condominium Regime II, Inc. v. Rose

453 Md. 684 (2017) · No. No. 33, September Term, 2016 · Decided June 23, 2017

SUMMARY

The Maryland Court of Appeals held that a condominium association may restrict access to general common elements to collect delinquent assessments only when the restriction is authorized by the condominium declaration. A suspension-of-privileges rule adopted by the association's board, without such authorization in the declaration, was invalid because it interfered with unit owners' property rights. The court also held that declaratory relief concerning the alleged debt was inappropriate while identical issues were pending in a District Court proceeding.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Barbera, C.J.; Greene, J.; Adkins, J.; McDonald, J.; Watts, J.; Hotten, J.; Getty, J.
JURISDICTION	Maryland
DECIDED	June 23, 2017
DOCKET	No. 33, September Term, 2016
DISPOSITION	affirmed
PROCEDURAL POSTURE	Both parties sought further review after the Court of Special Appeals affirmed the circuit court's rulings. Elvaton challenged the invalidation of its suspension-of-privileges rule, and the Roses challenged the refusal to adjudicate the validity of their alleged condominium-fee debt in the circuit court.
STANDARD OF REVIEW	The authority and validity of the condominium restriction presented a legal question reviewed de novo. The denial of declaratory judgment was reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published precedential opinion of the Court of Appeals of Maryland
PARTIES	Elvaton Towne Condominium Regime II, Inc., Wentworth Property Management, LLC, Elvaton Towne condominium association v. William Kevin Rose, Dawn Rose

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QUESTIONS PRESENTED

1. Whether a condominium association may temporarily suspend a delinquent unit owner's access to general common elements as a means of collecting condominium fees when the restriction was adopted by board rule rather than authorized in the declaration.
2. Whether the circuit court properly declined to issue declaratory relief concerning the validity of the alleged debt and lien while the identical debt dispute was pending in the District Court.

HOLDINGS

1. The Maryland Condominium Act permits restrictions on access to general common elements as a means of enforcing condominium-fee obligations only when the restriction is authorized by the unit owners through the condominium declaration. Because Elvaton's declaration did not authorize suspending parking and pool privileges for delinquent assessments, the board's rule was invalid.
2. The circuit court acted within its discretion by declining to issue declarations concerning the validity of the Roses' alleged debt and lien because the identical debt dispute was already pending in the District Court and no unusual or compelling circumstances justified parallel declaratory relief.

KEY QUOTATIONS

“Such restrictions, however, must first be authorized by the unit owners through agreement in the condominium’s declaration.” (at 2)

“Thus, the “suspension-of-privileges” Rule is invalid as beyond the Council’s power.” (at 23)

“Ordering declaratory relief “to decide an issue, even though the issue is presented in another pending case between the parties” is reserved for “very unusual and compelling circumstances.”” (at 25)

FACTUAL BACKGROUND

The Roses owned a condominium unit whose appurtenant property interests included undivided interests in the development's general common elements, including parking areas and a pool. After Elvaton alleged that the Roses were delinquent in paying condominium assessments, it recorded a statement of lien, filed a District Court debt-collection action, and invoked board-adopted rules barring the Roses from overnight parking and pool use until the alleged delinquency was cured. The condominium declaration did not expressly authorize suspension of access to common elements as a collection remedy.

PROCEDURAL HISTORY

Elvaton recorded a lien against the Roses' condominium unit and sued in the District Court of Maryland to recover allegedly delinquent condominium assessments. The Roses filed a circuit-court action seeking

declarations concerning their right to use common elements and the validity of the debt and lien. The circuit court declined to adjudicate the debt and lien issues because they were pending in the District Court, but ruled after trial that Elvaton's suspension-of-privileges rule was unauthorized; the Court of Special Appeals affirmed both rulings, and the Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Ridgely Condo. Ass'n v. Smyrnioudis, 343 Md. 357 (1996)
- Andrews v. City of Greenbelt, 293 Md. 69 (1982)
- Hidden Harbour Estates, Inc. v. Norman, 309 So. 2d 180 (Fla. Dist. Ct. App. 1975)
- Jurgensen v. New Phoenix Atlantic Condo. Council of Unit Owners, 380 Md. 106 (2004)
- Dulaney Towers Maintenance Corp. v. O'Brey, 46 Md. App. 464 (1980)
- Griffith v. Montgomery Cty., 57 Md. App. 472 (1984)
- Jarvis v. Stage Neck Owners Ass'n, 464 A.2d 952 (Me. 1983)
- Kaplan v. Boudreaux, 573 N.E.2d 495 (Mass. 1991)
- Reichs Ford Rd. Joint Venture v. State Rds. Comm'n of the State Highway Admin., 388 Md. 500 (2005)
- Kimball Laundry Co. v. United States, 338 U.S. 1 (1949)
- Schisler v. State, 394 Md. 519 (2006)
- Olde Severna Park Improvement Ass'n v. Gunby, 402 Md. 317 (2007)
- Gordy v. Ocean Park, Inc., 218 Md. 52 (1958)
- Haynie v. Gold Bond Bldg. Prods., 306 Md. 644 (1986)
- A.S. Abell Co. v. Sweeney, 274 Md. 715 (1975)
- Converge Servs. Group, LLC v. Curran, 383 Md. 462 (2004)
- Sprenger v. Pub. Serv. Comm'n of Md., 400 Md. 1 (2007)
- Elvaton Towne Condo. Regime II, Inc. v. Rose, No. 1033, Sept. Term, 2014 (Md. Ct. Spec. App. Apr. 21, 2016)

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