

SUPREME COURT OF PENNSYLVANIA

Mountain Village v. Board of Supervisors of Longswamp Township

582 Pa. 605 (Pa. 2005) · Decided May 16, 2005

SUMMARY

The Supreme Court of Pennsylvania held that a township could not assess its solicitor’s legal fees against a developer as subdivision and land development plan review fees under Section 503 of the Pennsylvania Municipalities Planning Code. The court interpreted the statutory references to professional consultants and engineers as covering scientific professionals who review plats and surveys, rather than municipal attorneys. The court affirmed the Commonwealth Court’s reversal and remand for summary judgment in favor of Mountain Village.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Newman; Cappy, C.J.; Castille, J.; Nigro, J.; Newman, J.; Saylor, J.; Eakin, J.; Baer, J.
JURISDICTION	Pennsylvania
DECIDED	May 16, 2005
DISPOSITION	affirmed
PROCEDURAL POSTURE	Mountain Village brought a declaratory judgment action challenging the Township's assessment of its solicitor's legal fees as land-development-plan review fees. The trial court granted summary judgment to the Township. The Commonwealth Court reversed and remanded for entry of summary judgment in favor of Mountain Village, and the Supreme Court of Pennsylvania affirmed.
STANDARD OF REVIEW	Summary judgment is reviewed for error of law or clear abuse of discretion; the scope of review is plenary. Summary judgment is proper only when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law, with the record viewed in the light most favorable to the nonmoving party.
PRECEDENTIAL VALUE	published precedential opinion of the Supreme Court of Pennsylvania
PARTIES	Board of Supervisors of Longswamp Township v. Mountain Village

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QUESTIONS PRESENTED

1. Whether Section 503 of the Pennsylvania Municipalities Planning Code authorized Longswamp Township to assess its solicitor's legal fees against a land-development applicant as review fees.
2. Whether the statutory term "professional consultant" included the Township solicitor for purposes of Section 503.
3. Whether the Township was entitled to summary judgment on the fee dispute.

HOLDINGS

1. Section 503 did not authorize Longswamp Township to pass its solicitor's legal fees for reviewing the development plans on to Mountain Village.
2. Summary judgment was proper for Mountain Village because the material facts were undisputed and the Township was not legally entitled to recover its solicitor's fees.

KEY QUOTATIONS

“Our review of the relevant sections of the MPC results in our determination that the reference in Section 503 to “consultant” does not include the Solicitor and, accordingly, does not allow the Township to pass on its legal costs to Mountain Village.” (874 A.2d at 12)

“The review costs contemplated by that Section at the time of this dispute are those incurred by professionals engaged in the review of plats.” (874 A.2d at 12)

FACTUAL BACKGROUND

Mountain Village owned and operated a mobile home park in Longswamp Township and applied in 1998 to expand it by 110 units. The Township charged an initial \$6,500 review fee and later invoiced Mountain Village for additional engineering and solicitor fees, including \$14,070 for the solicitor's work reviewing zoning and related issues. Mountain Village disputed the solicitor fees, arguing that Section 503 of the Pennsylvania Municipalities Planning Code authorized only reasonable and necessary fees for technical review of subdivision and land development plans.

PROCEDURAL HISTORY

Mountain Village submitted a preliminary land development plan for a mobile-home-park expansion and disputed the Township's invoice, which included solicitor fees. It filed a declaratory judgment action, and the Berks County Court of Common Pleas granted summary judgment for the Township. The Commonwealth Court reversed, holding that the Pennsylvania Municipalities Planning Code did not authorize assessment of the solicitor's legal fees, and the Pennsylvania Supreme Court granted allocatur and affirmed.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The Court affirmed the Commonwealth Court's remand to the trial court for entry of summary judgment in favor of Mountain Village.

CASES CITED

- Mountain Village v. Board of Supervisors of Longswamp Township, 828 A.2d 411 (Pa. Cmwlth. 2003)
- J.R.W., Inc. v. Manchester Borough Council, 148 Pa. Cmwlth. 238, 610 A.2d 1078 (1992)
- Atcovitz v. Gulph Mills Tennis Club, Inc., 571 Pa. 580, 812 A.2d 1218 (2002)
- Jewish Reconstructionist Synagogue of the North Shore, Inc. v. Inc. Village of Roslyn Harbor, 40 N.Y.2d 158, 386 N.Y.S.2d 198, 352 N.E.2d 115 (N.Y. 1976)
- Devlin v. Osser, 434 Pa. 408, 254 A.2d 303 (1969)
- Northway Village No. 3, Inc. v. Northway, 430 Pa. 499, 244 A.2d 47 (1968)
- Kusza v. Maximonis, 363 Pa. 479, 70 A.2d 329 (1950)
- Ballou v. State Ethics Commission, 496 Pa. 127, 436 A.2d 186 (1981)

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