

SUPREME COURT OF SOUTH CAROLINA

Skydive Myrtle Beach, Inc. v. Horry County

Skydive Myrtle Beach · No. Appellate Case No. 2018-001910 · Decided November 20, 2019

SUMMARY

The South Carolina Supreme Court held that Skydive Myrtle Beach's appeal from an ejectment order was not moot because Skydive had been involuntarily removed from the airport hangar and could be restored to possession if it prevailed. On the merits, the court held that a 2013 Space Use Permit superseded the parties' prior agreement and expired on January 31, 2014. The court reversed the Court of Appeals and affirmed the circuit court's ejectment decision.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Justice Few; Chief Justice Beatty; Justice Kittredge; Justice Hearn; Justice James
JURISDICTION	South Carolina
DECIDED	November 20, 2019
DOCKET	Appellate Case No. 2018-001910
DISPOSITION	reversed
PROCEDURAL POSTURE	After the magistrates court entered an ejectment order against Skydive, the circuit court affirmed. The court of appeals dismissed Skydive's appeal as moot, and the South Carolina Supreme Court granted certiorari, reversed the mootness dismissal, reached the merits, and affirmed the circuit court's ejectment ruling.
STANDARD OF REVIEW	The Supreme Court reviewed the court of appeals' mootness determination and the underlying legal effect of the agreements. Contract interpretation was based on the clear and unambiguous terms of the agreements.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Skydive Myrtle Beach, Inc. v. Horry County

TOPICS

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QUESTIONS PRESENTED

1. Whether Skydive's appeal was moot after it was removed from the hangar.
2. Whether the May 2012 agreement continued to give Skydive a right to occupy the hangar after the parties executed and allowed the Space Use Permit to expire.

HOLDINGS

1. The appeal was not moot because Skydive did not voluntarily vacate the hangar and a ruling reversing the ejectment order could have the practical legal effect of restoring Skydive to possession.
2. The Space Use Permit superseded the May 2012 agreement, expired on January 31, 2014, and left Skydive with no right to continue occupying the hangar.

KEY QUOTATIONS

"A case is moot "when judgment, if rendered, will have no practical legal effect upon existing controversy.""
(Mootness section)

"The appeal is not moot because Skydive did not voluntarily vacate the bird hangar, and a ruling in favor of Skydive could put it back in possession." (Conclusion)

"However, the Space Use Permit superseded the May 2012 agreement, and the Space Use Permit is expired. Skydive has no right to occupy the bird hangar." (Conclusion)

FACTUAL BACKGROUND

Horry County owned Grand Strand Airport, and Skydive occupied a hangar under a May 2012 agreement with the airport's former lessee. After the County terminated that lease, the County and Skydive executed a Space Use Permit that superseded prior agreements, expired on January 31, 2014, and allowed termination on thirty days' notice. Skydive remained in the hangar after expiration without entering a new lease, and the County successfully obtained an ejectment order.

PROCEDURAL HISTORY

Horry County filed an ejectment action in magistrates court after Skydive continued occupying an airport hangar following expiration of a space-use permit. The magistrates court ordered ejectment, and the circuit court affirmed; it also denied Skydive's motion to stay. While Skydive's appeal was pending, the court of appeals dismissed it as moot. The Supreme Court of South Carolina granted certiorari, held the appeal was not moot, and affirmed the circuit court on the merits.

DISPOSITION

reversed

CASES CITED

- Skydive Myrtle Beach, Inc. v. Horry County, 426 S.C. 175, 826 S.E.2d 585 (2019)
- Skydive Myrtle Beach, Inc. v. Horry Cty., 424 S.C. 298, 303, 818 S.E.2d 224, 227 (Ct. App. 2018)
- Mathis v. S.C. State Highway Dep't, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973)
- Berry v. Zahler, 220 S.C. 86, 66 S.E.2d 459 (1951)
- Futch v. McAllister Towing of Georgetown, Inc., 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999)

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