

COURT OF APPEALS OF ARKANSAS

Collins v. Cunningham

71 Ark. App. 297 (2000) · Decided October 25, 2000

SUMMARY

The Arkansas Court of Appeals affirmed summary judgment against Jesse Collins, who sought the return of rents paid for subleasing levee-district pasture land from WD Daggett Farms. The court held that Collins was not a third-party beneficiary of the pasturage permit between the farming operation and the St. Francis Levee District and that he failed to establish a basis for recovering rents already paid despite the permit's restriction on subleasing.

CASE DETAILS

COURT	Court of Appeals of Arkansas
WRITING FOR THE COURT	Andree Layton Roaf; Crabtree; Jennings
JURISDICTION	Arkansas
DECIDED	October 25, 2000
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order granting summary judgment to the appellees and dismissing Collins's counterclaim for the return of rents paid under a pasture-land sublease.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Jesse Collins v. Nellia Cunningham, Lyday Laneville, Julia Mixon, Sallie Dievendorf

TOPICS

summary judgment third party beneficiary landlord tenant contracts civil procedure

PRACTICE AREAS

Contracts Real estate Civil procedure

QUESTIONS PRESENTED

- Whether Collins had to establish that he was a third-party beneficiary of the permit between WDDF and the St. Francis Levee District to challenge the permit's terms.

2. Whether the permit's prohibition against unauthorized subleasing entitled Collins to recover rents already paid to WDDF on the theory that the sublease rendered the permit void and deprived WDDF of any right to charge rent.

HOLDINGS

1. Collins was not a third-party beneficiary of the agreement between WDDF and the St. Francis Levee District because the agreements did not show an intent to benefit him and did not establish the required privity or obligation running from the promisee to him.
2. Even assuming WDDF lacked the right to sublease the levee property, Collins was not entitled to recover the rents he paid because he identified no legal basis showing that the permit's restriction transformed his occupancy arrangement into a right to occupy the property rent-free or otherwise required repayment.

KEY QUOTATIONS

“We do not address an argument in the absence of citation to authority or convincing argument.”

“We agree that Collins cannot have any greater rights than WDDF; however, in this case, that right is the right to occupy the property.”

FACTUAL BACKGROUND

The St. Francis Levee District granted WDDF a personal, nontransferable pasturage permit for levee land, subject to a provision making the permit null and void upon unauthorized subleasing or assignment. WDDF leased the land to Collins for annual rent, first under a written five-year lease and later under an oral lease, while Collins agreed to comply with the levee-board lease terms. After Collins stopped paying rent and later surrendered possession, he sought return of the rents he had paid, arguing that WDDF's sublease invalidated the permit and left WDDF without any right to collect rent.

PROCEDURAL HISTORY

WDDF sued Collins for unlawful detainer after he stopped paying rent in 1996. Collins surrendered possession but pursued a counterclaim seeking repayment of rents on the theory that WDDF's sublease violated its permit from the St. Francis Levee District and rendered that permit void. The Lee County Circuit Court granted WDDF summary judgment, concluding Collins was not a third-party beneficiary of the permit, and the Arkansas Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Bush v. Bourland, 206 Ark. 275, 174 S.W.2d 936 (1943)
- Thomas Mfg. Co. v. Prather, 65 Ark. 27, 44 S.W. 218 (1898)

- West v. Norcross, 190 Ark. 667, 80 S.W.2d 67 (1935)
- Hopkins v. Ives, 263 Ark. 565, 566 S.W.2d 147 (1978)
- Presley v. Presley, 66 Ark. App. 316, 989 S.W.2d 938 (1999)

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