

COURT OF APPEALS OF MARYLAND

Bishields v. Campbell et ux., 200 Md. 622

91 A.2d 922 (1952) · No. No. 24, October Term, 1952 · Decided October 24, 2001

SUMMARY

The Maryland Court of Appeals addresses the scope of a prescriptive right-of-way easement and the servient owner's ability to maintain gates across it. The court holds that prior unlocked gates limited, but did not defeat, the prescriptive easement, and reverses the portion of the decree categorically prohibiting any gate or obstruction.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Delaplaine, J.; Markell, C.J.; Collins, J.; Henderson, J.; Hammond, J.
JURISDICTION	Maryland
DECIDED	October 24, 2001
DOCKET	No. 24, October Term, 1952
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Second appeal from a decree of the Circuit Court for Allegany County concerning an injunction against obstruction of a prescriptive right-of-way. The defendant appealed from the portion of the decree enjoining him from maintaining any gate or other obstruction on the roadway.
PRECEDENTIAL VALUE	Published precedential opinion of the Court of Appeals of Maryland
PARTIES	Michaele Bishields v. James E. Campbell and wife

TOPICS

prescriptive easements

easements

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appellate procedure

remedies

PRACTICE AREAS

Real property

Easements

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QUESTIONS PRESENTED

1. Whether the servient-estate owner could maintain a gate across a prescriptive right-of-way where prior gates had existed but had not prevented passage.

2. Whether the injunction barring the defendant from maintaining any gate or other obstruction conformed to the Court of Appeals' prior opinion and the scope of the prescriptive easement.

HOLDINGS

1. Absent an agreement or surrounding circumstances showing otherwise, the owner of the servient estate may maintain gates at the beginning and termination of a right-of-way, so long as the use does not unreasonably interfere with the easement.
2. The decree could not categorically prohibit the defendant from maintaining any gate or obstruction because the prior use established a right to passage, not necessarily a right to an entirely unobstructed roadway. The second paragraph of the decree was therefore stricken.

KEY QUOTATIONS

“a right of way is merely a right of passage and the owner of the land is entitled to use it for any purpose that does not unreasonably interfere with the use of the easement.” (624)

“The law is also clear that when an easement has been acquired by prescription, the character and extent of the use permissible are commensurate with and determined by the character and extent of the use during the prescriptive period.” (625)

“We held that the fact that unlocked gates had been erected across the roadway for the statutory period did not negative, but merely limited, the prescriptive right.” (626)

FACTUAL BACKGROUND

The complainants used a roadway across the defendants' land for more than forty years to reach their home and had acquired a prescriptive easement on the first appeal. The defendants erected a steel-and-wire gate at the roadway entrance and locked it. Although three earlier gates had existed during the prescriptive period, none had been locked, and the complainants could open them and continue along the road.

PROCEDURAL HISTORY

The Circuit Court for Allegany County initially dismissed the complainants' bill. On the first appeal, the Court of Appeals reversed and remanded, holding that the complainants had acquired an easement by prescription and could seek injunctive relief. On remand, the circuit court entered a decree declaring the right of the complainants and the public to use the roadway and enjoining the defendant from maintaining any gate or obstruction. The Court of Appeals reversed the second paragraph of that decree and remanded with instructions to strike it.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The second paragraph of the decree was to be stricken. The first paragraph was affirmed, and the case was remanded with costs to the appellant.

CASES CITED

- Campbell v. Bishields, 197 Md. 572, 80 A.2d 262
- Baker v. Frick, 45 Md. 337, 341, 24 Am. Rep. 506
- Barry v. Edlavitch, 84 Md. 95, 112, 35 A. 170, 33 L.R.A. 294
- Shivers v. Shivers, 32 N.J. Eq. 578
- Rogerson v. Shepherd, 33 W. Va. 307, 10 S.E. 632, 636
- Frazier v. Myers, 132 Ind. 71, 31 N.E. 536
- Brill v. Brill, 108 N.Y. 511, 15 N.E. 538, 539

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