

SUPREME COURT OF WYOMING

Cundy v. Range Telephone Cooperative, Inc.; Sundance Mountain Resort, Inc. v. Union Telephone Co., 2005 WY 153

123 P.3d 901 (Wyo. 2005) · No. Nos. 04-218, 04-220 · Decided December 1, 2005

SUMMARY

The Wyoming Supreme Court affirmed summary judgment and injunctions protecting Range Telephone Cooperative and Union Telephone Company's rights of ingress and egress across property owned by Cecil Cundy and Sundance Mountain Resort, Inc. The court held that Sundance Community Television Association and its later nonprofit corporate form were the same entity and that the association could lease the property and associated right-of-way to the telephone companies. The court rejected Cundy's statute-of-frauds and related challenges to the validity of the leases and easement rights.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Hill, Chief Justice; Hill, C.J.; Golden, J.; Kite, J.; Voigt, J.; Burke, J.
JURISDICTION	Wyoming
DECIDED	December 1, 2005
DOCKET	Nos. 04-218, 04-220
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from district-court summary judgment orders granting Range Telephone and Union Telephone declaratory and injunctive relief concerning rights-of-way across land owned by Cundy and Sundance Mountain Resort.
STANDARD OF REVIEW	Summary judgment is reviewed using the same materials and standards applied by the district court. The court determines whether there is no genuine issue of material fact and whether the prevailing party is entitled to judgment as a matter of law, views the record in the light most favorable to the nonmoving party, and reviews questions of law de novo.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential

PARTIES

Cecil Cundy, Sundance Mountain Resort, Inc. v. Range Telephone Cooperative, Inc., Union Telephone Company

TOPICS

easements

injunctions

summary judgment

trusts

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QUESTIONS PRESENTED

1. Whether the absence of a written conveyance from Hayward, as trustee, to the successor nonprofit corporation invalidated the leases and associated rights-of-way under the Statute of Frauds.
2. Whether Sundance T.V. Association, Inc. and the Sundance Community Television Association for which Hayward served as trustee were the same entity for purposes of the property and lease rights.
3. Whether Range Telephone and Union Telephone were entitled to use the rights-of-way and to injunctive or declaratory relief against Cundy's interference.
4. Whether the district court erred by denying Cundy's motions to dismiss for failure to join an indispensable party and failure to state a claim.
5. Whether summary judgment or partial summary judgment was proper where the operative facts were undisputed.

HOLDINGS

1. The Statute of Frauds did not invalidate Range Telephone's lease or its authorization to use the right-of-way because the deed conveyed the property to Hayward as trustee for the same entity that later operated as Sundance T.V. Association, Inc., d/b/a Sundance Community Television.
2. Range Telephone possessed enforceable rights-of-way providing access to its communications facilities, and Cundy could not interfere with Range's reasonable use of those rights.
3. The district court properly granted summary judgment and permanently enjoined Cundy from interfering with Range Telephone's access.
4. Union Telephone was the lessee under a valid lease from Sundance Community Television and was entitled to ingress and egress across Cundy's land to the leased parcel.
5. The court declined to consider Cundy's nonjoinder and failure-to-state-a-claim arguments because they were unsupported by cogent argument or pertinent authority; in any event, Range Telephone stated a claim upon which relief could be granted.

KEY QUOTATIONS

"the Sundance T.V. Association, d/b/a Sundance Community Television and the Sundance Community Television Association for whom Calvin W. Hayward served as a trustee are one and the same entity." (123

P.3d at 910)

“Therefore, the district court properly concluded that the lease and its concomitant authorization for Range Telephone to use the right-of-way conveyed with the Mitts property for the limited purposes associated with that lease was efficacious and is affirmed.” (123 P.3d at 910)

FACTUAL BACKGROUND

A 1958 warranty deed conveyed a parcel atop Sundance Mountain to Calvin W. Hayward as trustee for the Sundance Community Television Association and granted the grantee, assigns, and successors a right of ingress and egress across the grantors' surrounding lands. The association later became Sundance T.V. Association, Inc., a nonprofit corporation, and leased portions of the property and associated access rights to Range Telephone and Union Telephone for communications facilities. Cundy and Sundance Mountain Resort owned surrounding land and interfered with access by blocking or chaining the roadway gate. Range also held a separate right-of-way acquired through its predecessor, Mona Short Line Telephone Company.

PROCEDURAL HISTORY

Range Telephone filed an action for declaratory judgment, permanent injunction, nuisance, and trespass after Cundy blocked access to Range's communications facilities. The district court converted Cundy's motion to dismiss, with attached evidentiary materials, into a summary-judgment motion and granted summary judgment to Range Telephone. Union Telephone separately sought declaratory and injunctive relief; the district court denied Cundy's motion to dismiss and granted Union Telephone partial summary judgment. The Wyoming Supreme Court affirmed both orders.

DISPOSITION

affirmed

CASES CITED

- Edgcomb v. Lower Valley Power & Light, Inc., 922 P.2d 850 (Wyo. 1996)
- Martin v. Committee for Honesty and Justice at Star Valley Ranch, 2004 WY 128, 101 P.3d 123 (Wyo. 2004)
- Carter v. Heitzman, 198 A.D.2d 649, 603 N.Y.S.2d 614 (N.Y. App. Div. 1993)
- Wood v. Board of County Commissioners of Fremont County, 759 P.2d 1250 (Wyo. 1988)
- Samuel Mares Post 8 v. Board of County Commissioners of the County of Converse, 697 P.2d 1040 (Wyo. 1985)
- Tri-County Electric Association v. City of Gillette, 525 P.2d 3 (Wyo. 1974)
- G.H. Sternberg & Co. v. Cellini, 16 Ill. App. 3d 1, 305 N.E.2d 317 (Ill. App. Ct. 1973)
- Overton v. Alford, 210 Ga. 780, 82 S.E.2d 836 (Ga. 1954)
- Rawson v. Brownsboro Independent School District, 263 S.W.2d 578 (Tex. Civ. App. 1953)
- Grove v. Pfister, 2005 WY 51, 110 P.3d 275 (Wyo. 2005)

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