

SUPREME JUDICIAL COURT OF MASSACHUSETTS

Brian S. Hickey & others v. Pathways Association, Inc., & others

Hickey v. Pathways Association, Inc., 472 Mass. 735 (2015) · No. SJC-11603 · Decided September 22, 2015

SUMMARY

The Massachusetts Supreme Judicial Court considered a dispute among subdivision landowners concerning easement rights over a private way providing access to a beach. The court addressed ownership of the way and whether easements were enforceable against registered landowners when the easements were referenced in deeds, plans, or the certificates of title of the benefited properties but not specifically noted on the plaintiffs' certificates.

CASE DETAILS

COURT	Supreme Judicial Court of Massachusetts
WRITING FOR THE COURT	Lenk, J.; Gants, C.J.; Spina, J.; Botsford, J.; Duffly, J.; Hines, J.
JURISDICTION	Massachusetts
DECIDED	September 22, 2015
DOCKET	SJC-11603
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The plaintiffs appealed from a Land Court judgment in a quiet-title and declaratory-relief action concerning access rights over a private way to the beach. Several defendants filed cross appeals, and the Supreme Judicial Court granted direct appellate review.
STANDARD OF REVIEW	Because the Land Court decided the case on a case stated basis, the Supreme Judicial Court reviewed the matter de novo, drawing its own factual inferences and reaching its own legal conclusions.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Brian S. Hickey, Mary P. Hickey, Robert L. Paglia, Lorraine M. Paglia v. Pathways Association, Inc., Kathleen D. Homa, Theodore M. Homa, Evelyn A. Jenkins, Jane W. Loiselle, John R. Loiselle, James T. Moshier, Mary E. Moshier, Joseph J. Rahal, Mary G. Rahal, Irving A. Wilson, Martha K. Young, Roland W. Young, Norman Allentoff, Patricia M. Becker, Robert Becker, Rebecca S. Blair, Wesley K. Blair, III, Carole R. Bohn, Geraldine Burstein, Joseph Burstein, Frank Carrick, Jean Carrick, Marie C. Creonte, William T. Creonte, Craig P.

Eddy, Julia H. Eddy, Robert A. Furman, Elaine Giberti, Richard Giberti, Susan M. Hennessey, Pamela A. Maher, Paul J. Maher, Barbara Jessel, Martin Jessel, Karen LaFauci, James Maguire, Mary Maguire, Geoffrey L. Mahon, Mary Ellen Manock, Arthur Maressa, Gary McWilliams, Rosalind Neuman, Sanford Neuman, Marcia O'Shea, Richard O'Shea, Julie A. Piantedosi, Lewis R. Piantedosi, Paul W. Pietro, Susan E. Pietro, Joseph Russo, Suzanne Russo, Ronald S. Saks, Sharalyn Saks, Ann Christine Tobey, William Banks Tobey, Joseph Tosh, Christine M. Tosti, Christopher P. Tosti, Dorothy L. Tosti, Andrew Tvirbutas, Catherine Tvirbutas, Elizabeth Walker, John J. Walker, Kristin M. Walker, Michelle T. Walker, Susan L. Walker, Dudley Woodward, Karen Woodward, Bayview Limited Partnership

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QUESTIONS PRESENTED

1. Whether the common-law presumption that a grantor conveying land abutting a way conveys the fee to the center line was rebutted by the developers' deeds, subdivision plans, certificates of title, and course of development.
2. Whether defendants held easements over the way even though those easements were not specifically listed on the plaintiffs' certificates of title.
3. Whether the first exception recognized in *Jackson v. Knott* applied because facts appearing in the plaintiffs' certificates and related registration documents would have prompted a reasonable purchaser to investigate further.
4. Whether defendants whose lots were created on the M Plan and later derivative subdivision plans also held access easements over the way.

HOLDINGS

1. The defendants rebutted the common-law presumption that the developers conveyed the fee in the way to the owners of the abutting beachfront lots. The developers intended to retain the fee in the way while granting easement rights to the plaintiffs and later purchasers.
2. Although easements burdening registered land generally must be shown on the certificate of title, an easement may bind a purchaser under the first *Jackson* exception when facts described on the certificate would prompt a reasonable purchaser to investigate other certificates, documents, or plans in the registration system.
3. The first- and second-group defendants held rights of access over the twenty-foot way.

4. The third-group defendants, most of the unclassified defendants, and the holders of the specifically identified certificates also held easement rights over the way, even though their certificates referenced the M Plan or derivative plans rather than expressly listing the way.

KEY QUOTATIONS

“Because the defendants successfully rebutted the common-law presumption, we determine that the plaintiffs do not hold the fee in the way.”

“We conclude also, following Jackson, Lane, and Duddy, that documents on file in the land registration office show Luscombe and Morley's clear intent to grant easements over the way to the defendants in both the first and second groups, and, based on similar reasoning, to the defendants in the third group.”

“Purchasers are expected to review the plan showing the lot in question, and to investigate further other certificates of title, documents, and plans contained within the registration system, at the time of their purchase, to determine both their own rights and whether others have rights.”

FACTUAL BACKGROUND

The plaintiffs owned two beachfront lots in Dennis, Massachusetts, separated by a twenty-foot private way running from Cape Cod Bay to Shore Drive. The defendants owned inland lots created through a series of subdivision plans, many of which referenced easement rights over ways shown on plans filed in the same registered-land proceeding. The plaintiffs' certificates of title did not specifically list easements benefiting the defendants, and the plaintiffs sought a declaration that they owned the way exclusively and that the defendants had no right to use it.

PROCEDURAL HISTORY

The action was commenced in the Land Court in 2009 and was heard on a case stated based on stipulated facts and documentary exhibits. The Land Court concluded that the plaintiffs held the fee in the way, but that defendants in the first two groups held easement rights over it. The Supreme Judicial Court affirmed the judgment in part, reversed the determination that the third-group and certain unclassified defendants lacked access rights, and remanded for entry of an amended judgment.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for entry of an amended judgment declaring that the holders of certificates of title nos. 95145, 408557, 144428, 70287, 77871, 178757, 190559, 190691, 110223, 164891, and 179868 also have the benefit of a right of access over the way. The remaining portions of the Land Court judgment were affirmed.

CASES CITED

- Richardson v. Lee Realty Corp., 364 Mass. 632 (1974)

- Ware v. Hardwick, 67 Mass. App. Ct. 325 (2006)
- Darman v. Dunderdale, 362 Mass. 633 (1972)
- Suburban Land Co. v. Billerica, 314 Mass. 184 (1943)
- Rowley v. Massachusetts Elec. Co., 438 Mass. 798 (2003)
- Murphy v. Mart Realty of Brockton, Inc., 348 Mass. 675 (1965)
- Goldstein v. Beal, 317 Mass. 750 (1945)
- Beattie v. Swanson, 360 Mass. 50 (1971)
- Frost v. Jacobs, 204 Mass. 1 (1910)
- Jackson v. Knott, 418 Mass. 704 (1994)
- Lane v. Zoning Bd. of Appeals of Falmouth, 65 Mass. App. Ct. 434 (2006)
- Duddy v. Mankewich, 75 Mass. App. Ct. 62 (2009)
- Reagan v. Brissey, 446 Mass. 452 (2006)
- Boudreau v. Coleman, 29 Mass. App. Ct. 621 (1990)
- Rahilly v. Addison, 350 Mass. 660 (1966)
- Commonwealth Elec. Co. v. MacCardell, 450 Mass. 48 (2007)
- Doyle v. Commonwealth, 444 Mass. 686 (2005)

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