

DISTRICT OF COLUMBIA COURT OF APPEALS

Lindsey v. Prillman

921 A.2d 782 (D.C. 2007) · No. 06-CV-646 · Decided April 19, 2007

SUMMARY

The District of Columbia Court of Appeals affirmed the denial of a protective order and undertaking in a possession action involving an alleged agreement for the occupant to renovate and later purchase the property. The court held that a protective order was unwarranted because the arrangement did not establish periodic rental payments or a landlord-tenant relationship, and that an undertaking was not required because the occupant asserted only a contingent opportunity to obtain title. The court also declined to apply equitable conversion because the alleged contract’s validity and enforceability were uncertain.

CASE DETAILS

|                       |                                                                                                                                                                                       |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | District of Columbia Court of Appeals                                                                                                                                                 |
| WRITING FOR THE COURT | Ferren, Senior Judge; Kramer, Associate Judge; Thompson, Associate Judge                                                                                                              |
| JURISDICTION          | District of Columbia                                                                                                                                                                  |
| DECIDED               | April 19, 2007                                                                                                                                                                        |
| DOCKET                | 06-CV-646                                                                                                                                                                             |
| DISPOSITION           | affirmed                                                                                                                                                                              |
| PROCEDURAL POSTURE    | Appeal from interlocutory orders of the Superior Court of the District of Columbia, Landlord and Tenant Branch, denying a protective order and an undertaking in a possession action. |
| STANDARD OF REVIEW    | Abuse of discretion.                                                                                                                                                                  |
| PRECEDENTIAL VALUE    | Published opinion; precedential                                                                                                                                                       |
| PARTIES               | Jerome W. Lindsey v. Romualda Y. Prillman                                                                                                                                             |

TOPICS

- injunctions
- injunction bonds
- landlord tenant
- appellate jurisdiction
- contracts

PRACTICE AREAS

- Landlord-tenant
- Civil procedure
- Real estate
- Contracts
- Appellate procedure

## QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by refusing to enter a protective order requiring Prillman to make periodic payments into the court registry.
2. Whether Prillman's asserted contractual opportunity to obtain title constituted a plea of title requiring the trial court to order an undertaking under Superior Court Landlord and Tenant Rule 5(c).
3. Whether the doctrine of equitable conversion required the trial court to treat Prillman as an equitable owner and impose an undertaking or strike her contract defense.

## HOLDINGS

1. The trial court did not abuse its discretion by refusing to enter a protective order because Lindsey failed to establish that the possession action was based on nonpayment of rent or that a landlord-tenant relationship requiring periodic rental payments existed.
2. The trial court did not abuse its discretion by refusing to order an undertaking because Prillman was not asserting present title to the property; she was asserting only a contingent contractual opportunity to acquire title.
3. The trial court did not err by failing to apply equitable conversion sua sponte because the issue was not raised below and, in any event, the alleged contingent contract was not shown to be valid and enforceable.

## KEY QUOTATIONS

*"A "protective order . . . is a judicial creation specifically tailored to the circumstances of summary proceedings in the Landlord and Tenant Branch. . . ."* (785)

*"In sum, because it is unclear whether the alleged contract is valid and enforceable, both preconditions to the doctrine of equitable conversion, the trial court did not err, sua sponte, to apply that doctrine when asked to enter an undertaking before certifying the case to Civil II for trial."* (787)

## FACTUAL BACKGROUND

Lindsey sought possession of a residence occupied by Prillman for approximately five years. The parties agreed that they had no lease, and Prillman testified that Lindsey had allowed her to occupy and renovate the property with the expectation that she would later purchase it after bringing it up to code and obtaining financing. Lindsey presented two checks that had bounced, but the trial judge found that the arrangement was a contemplated purchase rather than a rental relationship.

## PROCEDURAL HISTORY

Lindsey filed a complaint seeking possession of a residence, rent, fees, and an order requiring future payments into the court registry. At a Bell hearing, Prillman denied a landlord-tenant relationship and asserted that she had an ownership interest based on an arrangement under which she would renovate the property and eventually purchase it. The trial court declined to enter a protective order or undertaking, certified the case for trial in the Civil Division, and denied Lindsey's motion for reconsideration. The Court of Appeals affirmed.

## DISPOSITION

affirmed

## CASES CITED

- Akassy v. William Penn Apartments Ltd. Partnership, 891 A.2d 291 (D.C. 2006)
- Bell v. Tsintolas Realty Co., 139 U.S. App. D.C. 101, 430 F.2d 474 (1970)
- McQueen v. Lustine Realty Co., 547 A.2d 172 (D.C. 1988)
- Turner v. Day, 461 A.2d 697 (D.C. 1983)
- Trustee 1245 13th Street, NW # 608 Trust v. Anderson, 905 A.2d 181 (D.C. 2006)
- Wallace v. Skadden, Arps, Slate, Meagher & Flom LLP, 799 A.2d 381 (D.C. 2002)
- SMS Associates v. Clay, 868 F. Supp. 337 (D.D.C. 1994)
- Flack v. Laster, 417 A.2d 393 (D.C. 1980)
- Penny v. Penny, 565 A.2d 587 (D.C. 1989)