SUPREME COURT OF RHODE ISLAND

Timothy Frazier v. Liberty Mutual Insurance Company, alias, ABC Insurance Company

Frazier · No. 2018-288-Appeal · Decided June 12, 2020

SUMMARY

The Rhode Island Supreme Court vacated summary judgment for Liberty Mutual in a personal-injury action arising from a slip and fall. The Court held that the savings statute could apply to the plaintiff's claim against the insurer because the insurer was sufficiently linked to its insured and was not a stranger to the original action, overruling Luft v. Factory Mutual Liability Insurance Co. of America to the extent inconsistent. Justice Indeglia dissented, arguing that longstanding precedent and the plain meaning of "stranger" required affirmance.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Justice Francis X. Flaherty; Chief Justice Suttell; Justice Goldberg; Justice Flaherty; Justice Robinson; Justice Indeglia
JURISDICTION	Rhode Island
DECIDED	June 12, 2020
DOCKET	2018-288-Appeal
DISPOSITION	vacated
PROCEDURAL POSTURE	Frazier appealed from the Superior Court's grant of summary judgment to Liberty Mutual in a personal-injury action, arguing that the savings statute preserved his direct claim against the insurer despite the statute of limitations.
STANDARD OF REVIEW	The Supreme Court reviewed the grant of summary judgment de novo, viewing the evidence in the light most favorable to the nonmoving party. It also reviewed questions concerning whether the statute of limitations had run and statutory construction de novo.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Rhode Island; precedential.
PARTIES	Timothy Frazier v. Liberty Mutual Insurance Company, ABC Insurance Company

TOPICS

statute of limitations · summary judgment · insurance · statutory interpretation · appellate procedure

PRACTICE AREAS

civil procedure · insurance · personal injury

QUESTIONS PRESENTED

1. Whether Rhode Island's savings statute, G.L. 1956 § 9-1-22, preserved Frazier's claim against Liberty Mutual after the action against the insured was dismissed for insufficient service of process.
2. Whether an insurer that appeared on behalf of its insured in the original action was a stranger to that action for purposes of the savings statute.
3. Whether summary judgment for Liberty Mutual was proper on statute-of-limitations grounds.

HOLDINGS

1. An insurer that is sufficiently linked to its insured and appears on behalf of the insured in the original action is not a stranger to that action under Rhode Island's savings statute. The savings statute therefore may preserve a subsequent claim against the insurer.
2. The statute of limitations did not bar Frazier's claim against Liberty Mutual because the savings statute extended the time for filing the action.

KEY QUOTATIONS

> *"It is our opinion that, because an insurance company and its insured are sufficiently linked, an insurance company is not, under these circumstances, a stranger to the original action against its insured."* (6)

> *"We therefore agree with Frazier that the second trial justice erred in holding that the savings statute did not apply to Frazier's claim against Liberty Mutual."* (8)

FACTUAL BACKGROUND

Frazier alleged that he slipped and fell on November 11, 2013, in a restroom at a Pizza Hut owned and operated by Mita Enterprises, LLC. He timely filed an action against Mita, but that action was dismissed for insufficient service of process after the default entered against Mita was vacated. Liberty Mutual, which insured Mita and had attorneys appear on Mita's behalf in the first action, was later substituted as defendant after process against Mita was returned non est inventus.

PROCEDURAL HISTORY

Frazier was injured on November 11, 2013, and first sued Mita Enterprises, LLC, the insured property owner, on November 2, 2016. The Superior Court vacated a default against Mita and dismissed the first action for insufficient service of process. Frazier filed a second action against Mita, obtained a return of process non est inventus, and amended the complaint to substitute Liberty Mutual as defendant. The second trial justice converted Liberty Mutual's motion to dismiss into a motion for summary judgment and ruled that the claim was time-barred. The Supreme Court vacated that judgment and remanded.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The record was remanded to the Superior Court for further proceedings consistent with the opinion; the grant of summary judgment in favor of Liberty Mutual was vacated.

CASES CITED

- Hexagon Holdings, Inc. v. Carlisle Syntec Incorporated, 199 A.3d 1034, 1038 (R.I. 2019)
- Sisto v. America Condominium Association, Inc., 68 A.3d 603, 611 (R.I. 2013)
- Narragansett Indian Tribe v. State, 81 A.3d 1106, 1109 (R.I. 2014)
- Goddard v. APG Security-RI, LLC, 134 A.3d 173, 175 (R.I. 2016)
- Ho-Rath v. Rhode Island Hospital, 115 A.3d 938, 942-43 (R.I. 2015)
- Rivers v. American Commerce Insurance Company, 836 A.2d 200, 204 (R.I. 2003)
- Martin v. Howard, 784 A.2d 291, 299 (R.I. 2001)
- Luft v. Factory Mut. Liability Ins. Co. of America, 51 R.I. 452, 155 A. 526 (1931)
- Mockel v. Pawtucket Gas Co. of New Jersey, 48 R.I. 485, 139 A. 308 (1927)
- McLaughlin v. Dunlop, 70 R.I. 155, 38 A.2d 157 (1944)
- Beilke v. Droz, 316 N.W.2d 912 (Iowa 1982)
- Hunt v. Century Indemnity Co., 58 R.I. 336, 192 A. 799 (1937)
- State v. Beauregard, 198 A.3d 1, 12 (R.I. 2018)
- State v. Knapp, 700 N.W.2d 899, 924 (Wis. 2005)
- Woonsocket School Committee v. Chafee, 89 A.3d 778, 792 (R.I. 2014)
- State v. Werner, 865 A.2d 1049, 1056 (R.I. 2005)
- Pastore v. Samson, 900 A.2d 1067, 1077 (R.I. 2006)
- DeSantis v. Prelle, 891 A.2d 873, 878 (R.I. 2006)
- Corliss v. City of Fall River, 397 F. Supp. 2d 260, 267 (D. Mass. 2005)
- Costello v. Bothers, 629 S.E.2d 599, 602 (Ga. Ct. App. 2006)