

SUPREME COURT OF GEORGIA

BAC Home Loans Servicing, L.P., f/k/a Countrywide Home Loans Servicing v. Wedereit

BAC Home Loans Servicing, L.P. v. Wedereit, 297 Ga. 313 (2015) · No. S14G1862 · Decided June 15, 2015

SUMMARY

The Supreme Court of Georgia held that the trial court improperly granted sua sponte partial summary judgment to the plaintiff on a breach of contract claim. Although the defendant's motion placed the relevant notice-compliance issue before the court, the plaintiff had not carried the separate burden of proving entitlement to judgment as a matter of law. The court reversed the Court of Appeals and the sua sponte summary judgment ruling.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Melton, Justice
JURISDICTION	Georgia
DECIDED	June 15, 2015
DOCKET	S14G1862
DISPOSITION	reversed
PROCEDURAL POSTURE	BAC appealed from the Court of Appeals of Georgia's affirmance of a trial court order that denied BAC summary judgment on Wedereit's breach-of-contract claim but sua sponte granted Wedereit partial summary judgment on that claim. The Supreme Court of Georgia granted certiorari to determine whether the sua sponte award of summary judgment to a nonmoving party was permissible.
STANDARD OF REVIEW	Summary judgment is reviewed under the rule that a defendant may prevail by showing an absence of evidence supporting an essential element of the plaintiff's claim, while a plaintiff seeking summary judgment must establish that there is no genuine issue of material fact as to every element and that judgment is warranted as a matter of law.
PRECEDENTIAL VALUE	binding
PARTIES	BAC Home Loans Servicing, L.P., f/k/a Countrywide Home Loans Servicing v. Brian Wedereit

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QUESTIONS PRESENTED

1. Whether a court may grant summary judgment sua sponte to a nonmoving party when the issues involved are identical to those raised in the opposing party's summary-judgment motion.
2. Whether the trial court properly granted Wedereit sua sponte summary judgment when Wedereit had not submitted evidence establishing every element of his breach-of-contract claim.

HOLDINGS

1. A court may grant summary judgment sua sponte to a nonmoving party only under limited circumstances: the issues must be identical to those raised in the movant's motion, the record must support the judgment, and the opposing party must receive full and fair notice and an opportunity to respond.
2. The trial court erred by granting Wedereit sua sponte summary judgment because the record did not establish that he had carried his burden of proving every element of his breach-of-contract claim.

KEY QUOTATIONS

"The issues must be identical to those raised in the movant's motion, such that it would render the nonmovant's filing of a separate motion for summary judgment on those same issues "a pure formality."" (297 Ga. at 313-314)

"These burdens are completely different, as it cannot be said that, where a defendant is unable to show that "there is no evidence sufficient to create a jury issue on at least one essential element of [a] plaintiff's case," a plaintiff has automatically carried his or her burden of proving every element of his or her case such that he or she is entitled to judgment as a matter of law." (297 Ga. at 317)

"Here, Wedereit's filing of his own separate motion for summary judgment would not have been a "mere formality," (see Cruce, supra), but would have been a necessary step for Wedereit to take towards meeting his own burden of proving that he was entitled to judgment as a matter of law." (297 Ga. at 318-319)

FACTUAL BACKGROUND

Wedereit alleged that BAC breached Paragraph 22 of the Security Deed by failing to provide proper pre-acceleration notice before accelerating the loan and pursuing foreclosure. BAC denied the allegation, submitted an affidavit and two letters purporting to show compliance with Paragraph 22, and moved for summary judgment. Wedereit submitted no evidence affirmatively establishing the merits of his breach-of-contract claim, and the trial court nonetheless granted him sua sponte partial summary judgment after finding that the notice letters did not comply with Paragraph 22.

PROCEDURAL HISTORY

Wedereit sued BAC for breach of contract, wrongful foreclosure, equitable relief, punitive damages, and attorney fees. The trial court denied BAC's motion for summary judgment on several claims, including breach of contract, but sua sponte granted Wedereit partial summary judgment on the breach-of-contract claim based on alleged noncompliance with the pre-acceleration notice provision in Paragraph 22 of the Security Deed. The Court of Appeals affirmed, and the Supreme Court of Georgia granted certiorari and reversed.

DISPOSITION

reversed

CASES CITED

- Covington v. Countryside Investment Co., 263 Ga. 125, 127 (3), 428 S.E.2d 562 (1993)
- Cruce v. Randall, 245 Ga. 669, 669-670, 266 S.E.2d 486 (1980)
- Aycock v. Calk, 222 Ga. App. 763, 764, 476 S.E.2d 274 (1996)
- Lau's Corp. v. Haskins, 261 Ga. 491, 405 S.E.2d 474 (1991)
- Smith v. Atlantic Mutual Cos., 283 Ga. App. 349, 351, 641 S.E.2d 586 (2007)
- BAC Home Loans Servicing, L.P. v. Wedereit, 328 Ga. App. 566 (1), 759 S.E.2d 867 (2014)