SUPREME COURT OF NEBRASKA

Spring Valley IV Joint Venture v. Nebraska State Bank of Omaha

269 Neb. 82 (2005) (Neb. 2005) · No. No. S-03-965 · Decided January 14, 2005

SUMMARY

The Supreme Court of Nebraska held that partnerships lacked standing to bring conversion claims against a bank for loan proceeds distributed to individual borrowers. Although the loan documents identified funding partnership interests as the purpose of the loans, the bank was instructed to disburse the proceeds directly to the borrowers, making the partnerships at most incidental beneficiaries without enforceable rights to the funds. The court affirmed dismissal of the action for lack of standing.

CASE DETAILS

COURT	Supreme Court of Nebraska
WRITING FOR THE COURT	Gerrard, J.; Hendry, C.J.; Wright, J.; Connolly, J.; Stephan, J.; Miller-Lerman, J.
JURISDICTION	Nebraska
DECIDED	January 14, 2005
DOCKET	No. S-03-965
DISPOSITION	affirmed
PROCEDURAL POSTURE	The partnerships appealed from the district court's order granting the Bank's motion for summary judgment and dismissing their conversion action for lack of standing.
STANDARD OF REVIEW	On summary judgment, the appellate court views the evidence in the light most favorable to the nonmoving party and gives that party the benefit of all reasonable inferences. A jurisdictional standing issue not involving a factual dispute is reviewed as a matter of law, with an independent appellate conclusion.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Spring Valley IV Joint Venture, Spring Valley V Joint Venture, Spring Valley X Joint Venture, Spring Valley XI Joint Venture, Brook Valley VI Joint Venture, Brook Valley XII Joint Venture, Brook Valley XIII Joint Venture v. Nebraska State Bank of Omaha

TOPICS

standing summary judgment third party beneficiary conversion civil procedure

PRACTICE AREAS

civil procedure contracts commercial litigation torts

QUESTIONS PRESENTED

1. Whether the partnerships had standing to maintain a conversion action against the Bank based on alleged rights to loan proceeds.
2. Whether the partnerships were intended third-party beneficiaries of the loan agreements and therefore possessed a legal or equitable interest in the proceeds.
3. Whether the district court properly granted summary judgment and dismissed the action for lack of standing.

HOLDINGS

1. The partnerships lacked standing because they did not establish a legal or equitable right, title, or interest in the loan proceeds.
2. The partnerships were, at most, incidental beneficiaries of the loan agreements and therefore acquired no enforceable rights against the Bank or to the loan proceeds.

KEY QUOTATIONS

> *"In order to have standing to invoke a tribunal's jurisdiction, one must have some legal or equitable right, title, or interest in the subject of the controversy."* (690 N.W.2d at 782)

> *"Thus, we conclude that the Partnerships were at most incidental beneficiaries of the loan agreements and, therefore, lack any enforceable property rights to the loan proceeds."* (690 N.W.2d at 783)

> *"The district court did not err in dismissing the Partnerships' operative complaint for lack of standing."* (690 N.W.2d at 783)

FACTUAL BACKGROUND

Dahlke and R.C.S. entered into several loan agreements with the Bank in March and April 2001. Although loan documents stated that the purpose of the loans was to fund interests in partnerships, the disbursement instructions directed the Bank to issue cashier's checks payable to Dahlke and R.C.S. individually, after which the borrowers purchased additional cashier's checks payable to various partnerships and other entities. The partnerships claimed that they had rights to the loan proceeds and sued the Bank for conversion and conversion of instruments.

PROCEDURAL HISTORY

Leo Dahlke and R.C.S. & Sons, Inc. borrowed money from Nebraska State Bank of Omaha and directed that the loan proceeds be disbursed to them individually. Seven partnerships sued the Bank, asserting that the proceeds were intended to fund partnership interests and that the Bank converted the funds by distributing them to other entities. The district court considered evidence outside the pleadings, converted the Bank's motion to dismiss into a motion for summary judgment, granted summary judgment, and dismissed the action for lack of standing. The Nebraska Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Plowman v. Pratt, 268 Neb. 466, 684 N.W.2d 28 (2004)
- County of Sarpy v. City of Gretna, 267 Neb. 943, 678 N.W.2d 740 (2004)
- Chambers v. Lautenbaugh, 263 Neb. 920, 644 N.W.2d 540 (2002)
- State ex rel. Steinke v. Lautenbaugh, 263 Neb. 652, 642 N.W.2d 132 (2002)
- Larsen v. First Bank, 245 Neb. 950, 515 N.W.2d 804 (1994)
- Chemical Realty Corp. v. Home Federal Savings & Loan, 84 N.C. App. 27, 351 S.E.2d 786 (1987)
- Century Bank v. Makkar, 132 Md. App. 84, 751 A.2d 1 (2000)
- Scott v. Mamari Corp., 242 Ga. App. 455, 530 S.E.2d 208 (2000)

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