COURT OF APPEALS OF MARYLAND

Consolidated Construction Services, Inc. v. Simpson, 372 Md. 434

813 A.2d 260 (2002) · No. No. 35, Sept. Term, 2002 · Decided December 23, 2002

SUMMARY

The Maryland Court of Appeals considered whether settlement funds created through litigation involving a judgment debtor and several garnishees were subject to garnishment by the judgment creditor. The court held that the funds were not garnishable because the judgment debtor had no direct ownership interest in them and the alleged obligations were merely contingent. The court also held that an attorney did not have a statutory lien under Maryland Business Occupations and Professions Article § 10-501 on the settlement funds.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Cathell; Bell, C.J.; Eldridge; Raker; Wilner; Harrell; Battaglia
JURISDICTION	Maryland
DECIDED	December 23, 2002
DOCKET	No. 35, Sept. Term, 2002
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petitioners sought review by writ of certiorari of the Court of Special Appeals' decision concerning the validity of judgment-creditors' garnishments against settlement funds and an attorney's claimed statutory lien on those funds.
STANDARD OF REVIEW	De novo review of the legal issues concerning statutory interpretation, the scope of garnishment, and the existence of a statutory attorney's lien.
PRECEDENTIAL VALUE	Published precedential opinion of the highest court of Maryland
PARTIES	Consolidated Construction Services, Inc., New Panorama Development Corporation, Atlas Plumbing and Mechanical, Inc., Maryland Paving and Sealant, Inc., Professional Service Industries, Inc., Donald J. McCartney, Jeffrey M. Kotz v. Robert C. Simpson, Trustees and personal representatives of the Simpson estates

TOPICS

civil procedure · remedies · attorney fees · statutory interpretation · plain meaning rule

PRACTICE AREAS

civil procedure · garnishment · construction law · remedies · statutory interpretation · attorney liens

QUESTIONS PRESENTED

1. Whether funds placed in a settlement fund under a multi-party settlement agreement were subject to garnishment by a judgment creditor of one party when the judgment debtor neither contributed to nor directly received the funds.
2. Whether former Maryland Code, Business Occupations and Professions Article § 10-501 created a statutory attorney's lien on settlement funds generated by a pretrial settlement agreement.

HOLDINGS

1. Settlement funds created to resolve contingent construction claims were not property or credits belonging to New Panorama and therefore were not subject to garnishment by New Panorama's judgment creditors.
2. The Court exceeded its rulemaking authority to the extent Maryland Rule 2-645 added contingent property or credits to the substantive class of property subject to garnishment under § 3-305.
3. Former § 10-501 did not create a statutory attorney's lien on settlement funds; the statute applied to an action or proceeding and to a judgment or award received by the client, but did not include settlements.

KEY QUOTATIONS

> *"Accordingly, the garnishments laid in the hands of the subcontractors, contractors and the escrow agent were invalid."* (372 Md. at 456)

> *"The property deposited into the settlement fund of the parties is not, for garnishment purposes, the property of New Panorama and cannot be garnished by its judgment creditors."* (372 Md. at 457)

> *"As the plain language of § 10-501 does not include "settlement" or "settlement funds," and petitioners' interpretation does not harmonize with other provisions of the Maryland Code, we affirm the decision of the lower court and hold that McCartney did not have a valid statutory lien on the monies within the settlement fund."* (372 Md. at 467)

> *"The unambiguous prior language of § 10-501(a)(1) of the Business Occupations and Professions Article of the Maryland Code, as supported by case law and other statutory provisions, illustrates that an attorney's statutory lien does not apply to settlement funds."* (372 Md. at 479)

FACTUAL BACKGROUND

New Panorama developed the Pleasant Chase residential community and hired Consolidated Construction Services and other contractors to perform utility, paving, plumbing, and engineering work. After construction defects allegedly caused the roads to settle and rupture, New Panorama sued the contractors, producing extensive cross-claims, counterclaims, and third-party claims. Separately, respondents obtained a $791,897.80

mortgage-default judgment against New Panorama and served garnishments on construction-litigant entities and individuals. The parties later created a settlement fund to resolve the construction litigation, with New Panorama contributing no funds and receiving no direct payment, while the settlement agreement expressly conditioned disbursement on termination of the garnishments.

PROCEDURAL HISTORY

New Panorama and several contractors and subcontractors litigated construction claims arising from the Pleasant Chase development. After respondents obtained a mortgage-default judgment against New Panorama, they served writs of garnishment on parties involved in the construction litigation. The circuit court terminated or dismissed the garnishments; the Court of Special Appeals affirmed in part, reversed in part, and remanded. The Court of Appeals granted certiorari, reversed the intermediate appellate court in part on garnishment, affirmed its ruling concerning the attorney's lien, and remanded with instructions to affirm the circuit court.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the Court of Special Appeals with instructions to affirm the judgment of the Circuit Court for Howard County.

CASES CITED

- Bragunier Masonry Contractors, Inc. v. Catholic University of America, 368 Md. 608, 796 A.2d 744 (2002)
- Mears v. Adreon, 31 Md. 229 (1869)
- Chromacolour Labs Inc. v. Snider Bros. Property Management, Inc., 66 Md. App. 320, 503 A.2d 1365 (1986)
- Northwestern National Insurance Co. v. William G. Wetherall, Inc., 267 Md. 378, 298 A.2d 1 (1972)
- Parkville Federal Savings Bank v. Maryland National Bank, 343 Md. 412, 681 A.2d 521 (1996)
- Fico, Inc. v. Ghingher, 287 Md. 150, 411 A.2d 430 (1980)
- Belcher v. Government Employees Insurance Co., 282 Md. 718, 387 A.2d 770 (1978)
- State v. Kanaras, 357 Md. 170, 742 A.2d 508 (1999)
- Shell Oil Co. v. Supervisor of Assessments of Prince George's County, 276 Md. 36, 343 A.2d 521 (1975)
- Sugarloaf Citizens' Association v. Department of the Environment, 344 Md. 271, 686 A.2d 605 (1996)
- Reyes v. Prince George's County, 281 Md. 279, 380 A.2d 12 (1977)
- City of Baltimore v. Comptroller, 292 Md. 293, 439 A.2d 1095 (1982)
- Steed Mortgage Co. v. Arthur, 37 Md. App. 592, 378 A.2d 690 (1977)
- Liverpool v. Baltimore Diamond Exchange, Inc., 369 Md. 304, 799 A.2d 1264 (2002)
- Mayor & City Council of Baltimore v. Chase, 360 Md. 121, 756 A.2d 987 (2000)
- State v. Bell, 351 Md. 709, 720 A.2d 311 (1998)
- Tracey v. Tracey, 328 Md. 380, 614 A.2d 590 (1992)

- Miles v. State, 365 Md. 488, 781 A.2d 787 (2001)
- Whiting-Turner Contracting Co. v. Fitzpatrick, 366 Md. 295, 783 A.2d 667 (2001)
- Ashman v. Shecter, 196 Md. 168, 76 A.2d 139 (1950)
- Attorney Grievance Commission v. Sheridan, 357 Md. 1, 741 A.2d 1143 (1999)
- Staley v. Board of Education of Washington County, 308 Md. 42, 517 A.2d 349 (1986)
- Diamond v. Diamond, 298 Md. 24, 467 A.2d 510 (1983)
- Campen v. Talbot Bank of Easton, 271 Md. 610, 319 A.2d 125 (1974)
- Chanticleer Skyline Room, Inc. v. Greer, 271 Md. 693, 319 A.2d 802 (1974)
- St. Joseph Hospital v. Quinn, 241 Md. 371, 216 A.2d 732 (1966)
- Jones v. Hubbard, 356 Md. 513, 740 A.2d 1004 (1999)
- Clark v. Elza, 286 Md. 208, 406 A.2d 922 (1979)
- Baltimore & Ohio Railroad Co. v. Equitable Bank, 77 Md. App. 320, 550 A.2d 407 (1988)
- Ramsey, Inc. v. Davis, 66 Md. App. 717, 505 A.2d 899 (1986)
- Mitchell Properties, Inc. v. Real Estate Title Co., 62 Md. App. 473, 490 A.2d 271 (1985)