

SUPREME COURT OF NEW HAMPSHIRE

Pope v. Lee

152 N.H. 296 (2005) · Decided June 3, 2005

SUMMARY

The New Hampshire Supreme Court considered whether a lease provision granting the tenant an option to renew the lease in 1999 and “automatically thereafter” created a right to continual renewals. The court held that the plain and unequivocal language granted the tenant that right and that the trial court therefore erred in characterizing her as a tenant at will. The court rejected challenges based on ambiguity, insufficient consideration, unconscionability, restraints on alienation, and related lease provisions.

CASE DETAILS

COURT	Supreme Court of New Hampshire
WRITING FOR THE COURT	Broderick, C.J.; Nadeau, J.; Dalianis, J.; Duggan, J.; Galway, J.
JURISDICTION	New Hampshire
DECIDED	June 3, 2005
DISPOSITION	reversed
PROCEDURAL POSTURE	Appeal from a bench trial ruling that the defendant was a tenant at will after the trial court found no right to perpetual renewals.
STANDARD OF REVIEW	Because the meaning of a lease agreement, including whether a term is ambiguous, is ultimately a matter of law for this court to decide, the trial court's interpretation of a lease agreement is reviewed de novo.
PRECEDENTIAL VALUE	Published
PARTIES	Nancy Moran Lee v. David A. Pope and Suzanne M. Pope, individually and as trustees of the David A. Pope 1990 Revocable Trust and the Woodie 1990 Revocable Trust

TOPICS

- contract interpretation
- landlord tenant
- real estate
- appellate procedure
- standard of review

PRACTICE AREAS

- Real Estate
- Contracts
- Appellate Practice

QUESTIONS PRESENTED

1. Whether the trial court erred in ruling that the defendant was a tenant at will after determining that the 1998 lease agreement did not confer a right to perpetual renewals.
2. Whether the 1998 lease agreement, by its plain language, entitled the defendant to renew the lease in 1999 and thereafter without additional writing.
3. Whether any of the plaintiffs' alternative arguments—want of material term, unreasonableness, lack of consideration, unconscionability, rejection/breach, or lack of meeting of the minds—defeat the defendant's right to continual renewals.

HOLDINGS

1. The trial court erred as a matter of law because the 1998 lease agreement's Article 2.2, by its plain language, gave the defendant the right to continually renew the lease in 1999 and thereafter.
2. No additional consideration was required because the renewal provision was part of the 1998 lease agreement and was supported by the consideration for the lease.
3. The renewal right did not unreasonably restrain alienation because it did not prevent the plaintiffs from selling or refinancing the premises.
4. The renewal provision was not unconscionable.
5. The defendant did not breach the lease by refusing the plaintiffs' 2002 lease terms.
6. There was a meeting of the minds because the 1998 lease, as amended, established rent and did not leave it to future negotiation.

KEY QUOTATIONS

“The [defendant] shall have the option to renew this lease in 1999 and automatically thereafter with certain exceptions stated herein.” (298)

“The lease shall automatically renew each and every year unless [the defendant] provides the [plaintiffs] with notice of [her] intent to terminate prior to March 15th of any year.” (299)

“Thus, the common meaning of the term “automatically,” read in the context of article 2.2, plainly and unequivocally demonstrates that the parties intended to create a right to continual renewals.” (302)

“In sum, we hold that based upon the plain and unequivocal language of article 2.2 of the 1998 lease agreement, the defendant has the right to continually renew her lease of the premises. Thus, the trial court erred as a matter of law in ruling that the defendant is a tenant at will.” (306)

FACTUAL BACKGROUND

The plaintiffs own a seasonal ice cream and food service establishment known as the Beach Plum Ice Cream Shop in North Hampton, New Hampshire. The defendant leased the premises from 1993 to 1997 under successive annual leases, and in July 1998 the parties executed a lease containing an 'Option to Renew' clause stating that the defendant 'shall have the option to renew this lease in 1999 and automatically thereafter.' The lease's rent provisions were tied to the plaintiffs' ongoing menu litigation against the Town of North Hampton.

After renewals in 1999, 2000, and 2001, the plaintiffs proposed a 2002 lease without a renewal option and at a significantly higher rent; the defendant rejected it, and the plaintiffs sought a declaratory judgment that the 1998 lease did not confer a right to perpetual renewals.

PROCEDURAL HISTORY

The plaintiffs brought a declaratory judgment action in the Superior Court, which ruled that the 1998 lease conferred only one renewal and that the defendant was a tenant at will. The defendant appealed. This court initially issued a reversal on April 8, 2005, then granted the plaintiffs' reconsideration motion in part, withdrew the original opinion, and issued this decision again reversing.

DISPOSITION

reversed

CASES CITED

- Pope v. Little Boar's Head Dist., 145 N.H. 531 (2000)
- 190 Elm St. Realty v. Beaudoin, 151 N.H. 205, 206 (2004)
- N.H. Water Res. Council v. Steels Pond Hydro, 151 N.H. 214, 215 (2004)
- LeTarte v. West Side Dev. Group, 151 N.H. 291, 294 (2004)
- Bussiere v. Roberge, 142 N.H. 905, 909 (1998)
- In re Mackie's Petition, 125 N.W.2d 482, 485 (Mich. 1963)
- Geyer v. Lietzan, 103 N.E.2d 199, 201 (Ind. 1952)
- Drink, Inc. v. Martinez, 556 P.2d 348, 352 (N.M. 1976)
- Oak Bay Prop. v. Silverdale Sportsman's Center, 648 P.2d 465, 467 (Wash. Ct. App. 1982)
- Giacobbi Square v. PEK Corp., 670 P.2d 51, 53 (Idaho 1983)
- McCormick v. Brockett, 306 S.E.2d 344, 345-46 (Ga. Ct. App. 1983)
- Horse Pond Fish & Game Club v. Cormier, 133 N.H. 648, 653 (1990)
- Metropolitan Park Dist. v. Griffith, 723 P.2d 1093, 1099 (Wash. 1986) (en banc)
- Parham v. Glass Club Lake, Inc., 533 S.W.2d 96, 97 (Tex. App. 1976)