

SUPREME COURT OF RHODE ISLAND

Paul F. Nardone et al. v. Natale Ritacco et al.

936 A.2d 200 (R.I. 2007) · No. No. 2006-342-Appeal · Decided December 3, 2007

SUMMARY

The Rhode Island Supreme Court reviewed a dispute concerning the location and use of a deeded right-of-way over the plaintiffs’ property. The court affirmed the determination that the right-of-way ran along the northern boundary and upheld attorney’s fees awarded as a contempt sanction, but remanded for findings on the defendants’ claims of a prescriptive easement and an easement by substitution.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Chief Justice Williams; Williams, C.J.; Goldberg, J.; Flaherty, J.; Suttell, J.; Robinson, J.
JURISDICTION	Rhode Island
DECIDED	December 3, 2007
DOCKET	No. 2006-342-Appeal
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendants appealed from a Superior Court judgment that located the deeded right-of-way along the northern boundary of plaintiffs' property, imposed attorney-fee sanctions for contempt, and did not separately resolve defendants' claims for prescriptive easement and easement by substitution.
STANDARD OF REVIEW	Findings of fact by a trial justice sitting without a jury are reviewed deferentially and will not be disturbed unless clearly erroneous, based on a misconception or overlooking of material evidence, or failing to do substantial justice. Civil contempt findings receive great deference and are overturned only when clearly wrong. Attorney-fee awards imposed in connection with contempt are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Rhode Island; precedential.
PARTIES	Natale Ritacco, Pasquale Ritacco, Frank Scavello, Salvatore Scavello, Louis Scavello, Josepha Ritacco, Domenic Capizzano, Rose

TOPICS

prescriptive easements

easements

contempt

attorney fees

appellate procedure

PRACTICE AREAS

real estate

civil procedure

appellate procedure

remedies

QUESTIONS PRESENTED

1. Whether competent evidence supported the Superior Court's determination that the deeded right-of-way was located along the northern boundary of plaintiffs' property rather than including plaintiffs' driveway.
2. Whether the Superior Court erred by failing to make findings of fact and conclusions of law on defendants' claims for a prescriptive easement over the driveway.
3. Whether the Superior Court erred by failing to make findings of fact and conclusions of law on defendants' claim for an easement by substitution over the driveway.
4. Whether the Superior Court abused its discretion by awarding plaintiffs attorney fees as a sanction for civil contempt without a separate finding of a willful violation.

HOLDINGS

1. The Superior Court properly determined that the deeded right-of-way ran along the northern boundary of plaintiffs' property.
2. The Superior Court's failure to address the factual and legal elements of defendants' prescriptive-easement claim required reversal and remand for a new trial.
3. The Superior Court's failure to make findings of fact and conclusions of law on defendants' easement-by-substitution claim required reversal and remand for a new trial.
4. The Superior Court did not abuse its discretion by awarding plaintiffs \$8,147 in attorney fees as a sanction for defendants' civil contempt.

KEY QUOTATIONS

"It is well settled that '[t]his Court will not disturb the findings of a trial justice sitting without a jury unless such findings are clearly erroneous or unless the trial justice misconceived or overlooked material evidence or unless the decision fails to do substantial justice between the parties.'" (204)

"One who claims an easement by prescription bears the burden of establishing actual, open, notorious, hostile, and continuous use under a claim of right for at least ten years." (205)

"We cannot, however, `be kept in the dark when we review, and noncompliance with the rule will entail the risk of reversal or remand unless the record will yield a full understanding and resolution of the controlling and essential factual and legal issues.'" (206-207)

“Thus, because the trial justice failed to credit or reject this testimony, and failed to make any findings of fact or conclusions of law on this issue, this Court has no choice but to remand this case to the Superior Court for a new trial, to determine whether defendants acquired an easement by substitution over plaintiffs' property.” (207)

FACTUAL BACKGROUND

Plaintiffs owned a parcel in Hopkinton, Rhode Island, bordering Lawton Foster Road, while defendants owned an adjoining landlocked parcel. In 1965, plaintiffs' predecessor granted defendants a fifty-foot right-of-way along the northerly boundary of plaintiffs' property. After defendants cleared vegetation in and around the right-of-way, plaintiffs obtained injunctive relief, and the parties entered a consent order prohibiting defendants from cutting or removing vegetation outside the fifty-foot right-of-way. Defendants continued to use plaintiffs' driveway and allegedly violated the court orders, leading to contempt proceedings and a dispute over whether they had acquired a prescriptive easement or easement by substitution over the driveway.

PROCEDURAL HISTORY

Plaintiffs sued to enjoin defendants from cutting vegetation and trespassing beyond a deeded fifty-foot right-of-way. After repeated contempt motions and a nonjury trial, the Superior Court determined that the right-of-way ran along the northern boundary of plaintiffs' property and awarded plaintiffs \$8,147 in attorney fees as a contempt sanction. Defendants appealed, arguing that the right-of-way included plaintiffs' driveway, that their easement claims were not addressed, and that the fee award lacked evidentiary support. The Supreme Court affirmed the right-of-way determination and contempt sanction but reversed and remanded for a new trial on the prescriptive-easement and easement-by-substitution claims.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the Rhode Island Superior Court for a new trial and findings on whether defendants acquired a prescriptive easement over plaintiffs' property and whether they acquired an easement by substitution over the property. The determination of the deeded right-of-way's location and the contempt attorney-fee award were affirmed.

CASES CITED

- Imperial Casualty and Indemnity Co. v. Bellini, 888 A.2d 957, 961 (R.I. 2005)
- Macera v. Cerra, 789 A.2d 890, 892-93 (R.I. 2002)
- Nisenzon v. Sadowski, 689 A.2d 1037, 1042 (R.I. 1997)
- Direct Action for Rights and Equality v. Gannon, 819 A.2d 651, 661 (R.I. 2003)
- Stone v. Green Hill Civic Association, Inc., 786 A.2d 387, 389-90 (R.I. 2001)
- Palisades Sales Corp. v. Walsh, 459 A.2d 933, 936 (R.I. 1983)

- *Carnevale v. Dupee*, 783 A.2d 404, 409 (R.I. 2001)
- *White v. LeClerc*, 468 A.2d 289, 290 (R.I. 1983)
- *Town of Charlestown v. Beattie*, 422 A.2d 1250, 1251 (R.I. 1980)
- *Rowell v. Kaplan*, 103 R.I. 60, 70, 235 A.2d 91, 97 (1967)
- *Ondis v. City of Woonsocket*, 934 A.2d 799, 803 (R.I. 2007)
- *Hurst v. Brayton*, 43 R.I. 378, 381, 113 A. 4, 5 (1921)
- *Trahan v. Trahan*, 455 A.2d 1307, 1311 (R.I. 1983)
- *E.M.B. Associates, Inc. v. Sugarman*, 118 R.I. 105, 108, 372 A.2d 508, 509 (1977)