

WASHINGTON COURT OF APPEALS, DIVISION THREE

Robert Sydow v. Douglass Properties, LLC

Sydow · No. 40537-1-III · Decided April 16, 2026

SUMMARY

The Washington Court of Appeals, Division Three, addresses a boundary dispute involving Robert Sydow’s claim that he acquired a strip of land by adverse possession. The court holds that the undisputed evidence established the elements of adverse possession as a matter of law and rejects the asserted common grantor and equitable estoppel defenses. It reverses summary judgment for Douglass Properties, reinstates Sydow’s claims, and remands for partial summary judgment in Sydow’s favor on adverse possession.

CASE DETAILS

COURT	Washington Court of Appeals, Division Three
WRITING FOR THE COURT	Staab, C.J.; Fearing, J.P.T.; Murphy, J.
JURISDICTION	Washington Court of Appeals, Division Three
DECIDED	April 16, 2026
DOCKET	40537-1-III
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from cross orders on summary judgment in a boundary and adverse-possession action. The superior court denied Sydow's partial summary judgment motion, granted Douglass's motion, dismissed Sydow's adverse possession, quiet title, trespass, timber trespass, negligence, and negligent infliction of emotional distress claims, and awarded Douglass costs and attorney fees.
STANDARD OF REVIEW	Summary judgment is reviewed de novo, using the same inquiry as the trial court. On cross motions, the evidence is viewed in the light most favorable to the nonmoving party on the particular claim. Whether the undisputed facts constitute adverse possession is a question of law for the court.
PRECEDENTIAL VALUE	Published Washington Court of Appeals opinion; precedential under applicable Washington law.
PARTIES	Robert Sydow v. Douglass Properties, LLC

TOPICS

adverse possession quiet title summary judgment trespass appellate procedure

PRACTICE AREAS

real estate property law adverse possession boundary disputes torts civil procedure

QUESTIONS PRESENTED

1. Whether the undisputed evidence established that Sydow acquired title to the disputed strip by adverse possession.
2. Whether the transfer of record title among successive owners interrupted or restarted the adverse-possession statutory period.
3. Whether the common grantor doctrine barred Sydow's adverse-possession claim.
4. Whether equitable estoppel barred Sydow's adverse-possession claim.
5. Whether dismissal of Sydow's tort claims was proper once the trial court rejected his ownership claim.

HOLDINGS

1. The undisputed evidence established as a matter of law that Sydow adversely possessed the disputed property for the statutory period through possession that was open and notorious, actual and uninterrupted, exclusive, and hostile.
2. A transfer of the adversely possessed property does not interrupt or restart the statutory period when the claimant's possession remains continuous and successive record owners have actual or constructive knowledge of it.
3. The common grantor doctrine did not apply because the deed's legal-description boundary was not a visible boundary that had supplanted the deed line; the only visible boundary was Sydow's fence.
4. Equitable estoppel did not bar Sydow's claim because Douglass could not prove a representation attributable to Sydow on which Douglass reasonably relied, and Douglass knew or could discover the true facts before purchasing.
5. Dismissal of Sydow's trespass, timber trespass, negligence, and negligent infliction of emotional distress claims was erroneous because it was based on the mistaken conclusion that Sydow did not own the disputed property.
6. Sydow was entitled to reasonable attorney fees and costs at trial and on appeal under RCW 7.28.083 because he was the prevailing party in an action asserting title by adverse possession.

KEY QUOTATIONS

“Adverse possession is a mixed question of law and fact: “[w]hether the essential facts exist is for the trier of fact; but whether the facts . . . constitute adverse possession is for the court to determine as a matter of law.””
(at 10-11)

“Title vests automatically in the adverse possessor if all the elements are fulfilled throughout the statutory period.” (at 10-11)

“The doctrine requires a visible boundary that supplants the boundary described in the legal description.” (at 21)

“Here, the undisputed evidence is that Sydow’s possession was that of a true owner: hostile to the claims of any other.” (at 28-29)

FACTUAL BACKGROUND

Sydow occupied and used a manufactured-home parcel adjoining land later conveyed to Douglass. In 2006 he built a fence approximately 50 to 60 feet north of the deeded boundary, and from 2008 until 2020 he continuously used and maintained the enclosed strip, including clearing land, creating wildlife habitats and family memorials, mowing, installing cameras and fencing, and posting no-trespassing signs. Medar, Saylor, and eventually Douglass knew that the fence encroached beyond the deeded boundary; Douglass obtained surveys and title insurance expressly identifying the encroachment before purchasing the property. In 2020 Douglass entered the strip, removed the fence and improvements, and clearcut the area.

PROCEDURAL HISTORY

Sydow sued Douglass asserting that he acquired title to the disputed strip by adverse possession and seeking quiet title and tort damages after Douglass removed his fence and improvements. Following discovery, the parties filed cross motions for summary judgment. The superior court denied Sydow's motion and granted Douglass's motion, concluding that Sydow failed to establish open and notorious possession and that the common grantor doctrine and equitable estoppel barred his claims. Sydow timely appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the orders granting Douglass summary judgment, awarding Douglass costs and attorney fees, and dismissing Sydow's claims. Reverse the denial of Sydow's partial summary judgment motion. Remand for entry of an order granting Sydow partial summary judgment on adverse possession, determination of Sydow's reasonable attorney fees, and further proceedings on Sydow's remaining tort claims.

CASES CITED

- Hertog v. City of Seattle, 138 Wn.2d 265, 275, 979 P.2d 400 (1999)
- Anderson v. Akzo Nobel Coatings, Inc., 172 Wn.2d 593, 597, 260 P.3d 857 (2011)
- Seven Gables Corp. v. MGM/UA Entertainment Co., 106 Wn.2d 1, 13, 721 P.2d 1 (1986)
- Miller v. Likins, 109 Wn. App. 140, 144, 34 P.3d 835 (2001)
- Ruff v. County of King, 125 Wn.2d 697, 887 P.2d 886 (1995)

- *Martinez-Cuevas v. DeRuyter Bros. Dairy, Inc.*, 196 Wn.2d 506, 514, 475 P.3d 164 (2020)
- *Peeples v. Port of Bellingham*, 93 Wn.2d 766, 771, 613 P.2d 1128 (1980)
- *Chaplin v. Sanders*, 100 Wn.2d 853, 676 P.2d 431 (1984)
- *Campbell v. Reed*, 134 Wn. App. 349, 361, 139 P.3d 419 (2006)
- *Gorman v. City of Woodinville*, 175 Wn.2d 68, 71-72, 283 P.3d 1082 (2012)
- *ITT Rayonier, Inc. v. Bell*, 112 Wn.2d 754, 757-758, 774 P.2d 6 (1989)
- *Riley v. Andres*, 107 Wn. App. 391, 396-397, 27 P.3d 618 (2001)
- *Shelton v. Strickland*, 106 Wn. App. 45, 51, 21 P.3d 1179 (2001)
- *Wood v. Nelson*, 57 Wn.2d 539, 540, 358 P.2d 312 (1961)
- *Ofuasia v. Smurr*, 198 Wn. App. 133, 144, 392 P.3d 1148 (2017)
- *Bryant v. Palmer Coking Coal Co.*, 86 Wn. App. 204, 211-212, 936 P.2d 1163 (1997)
- *Lloyd v. Montecucco*, 83 Wn. App. 846, 853, 924 P.2d 927 (1996)
- *Krona v. Brett*, 72 Wn.2d 535, 539, 433 P.2d 858 (1967)
- *Reitz v. Knight*, 62 Wn. App. 575, 581, 814 P.2d 1212 (1991)
- *Roy v. Cunningham*, 46 Wn. App. 409, 412, 731 P.2d 526 (1986)
- *LeBleu v. Aalgaard*, 193 Wn. App. 66, 80, 371 P.3d 76 (2016)
- *Aalgaard*, 193 Wn. App. at 83
- *Pendergrast v. Matichuk*, 186 Wn.2d 556, 564, 379 P.3d 96 (2016)
- *Turner v. Creech*, 58 Wash. 439, 443, 108 P. 1084 (1910)
- *Kronawetter v. Tamoshan, Inc.*, 14 Wn. App. 820, 826, 545 P.2d 1230 (1976)
- *Winans v. Ross*, 35 Wn. App. 238, 241, 666 P.2d 908 (1983)
- *Levien v. Fiala*, 79 Wn. App. 294, 302, 902 P.2d 170 (1995)
- *Atwell v. Olson*, 30 Wn.2d 179, 190 P.2d 783 (1948)
- *Rinehold v. Renne*, 198 Wn.2d 81, 83-97, 492 P.3d 154 (2021)
- *Angell v. Hadley*, 33 Wn.2d 837, 838-839, 207 P.2d 191 (1949)
- *Thompson v. Bain*, 28 Wn.2d 590, 183 P.2d 785 (1947)
- *Strom v. Arcorace*, 27 Wn.2d 478, 178 P.2d 959 (1947)
- *Nickell v. Southview Homeowners Ass'n*, 167 Wn. App. 42, 53, 55, 271 P.3d 973 (2012)
- *Arnold v. Melani*, 75 Wn.2d 143, 147, 449 P.2d 800 (1968)
- *Leonard v. Washington Employment, Inc.*, 77 Wn.2d 271, 461 P.2d 538 (1969)
- *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 809, 828 P.2d 549 (1992)
- *Douglas v. Visser*, 173 Wn. App. 823, 834 & n.3, 295 P.3d 800 (2013)

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