

Who Owns the Riparian Rights to an Inland Lake if a Road Separates the Lots Fronting the Lake From the Water?

Facts:

Beach Drive, the road at issue, runs parallel along the shoreline of Lake Charlevoix and separates the plaintiffs' front lots from the lake. The lots extend to the edge of the road and not the water's edge. In 1911, D. C. Littleton, the original plat proprietor, dedicated the road to the public under the Plat Act of 1887. The dedication included the following language: "The streets and alleys as shown on the plat are hereby dedicated to the use of the public." The Charlevoix County Board of Supervisors accepted the plat and the dedication of the streets. Many lots alongside Michigan's some 11,000 inland lakes were platted during this period of time and are separated from the water by a public road running parallel to the shoreline.

Over the years, plaintiffs exercised so-called riparian rights and have used the lake in front of their lots and have built docks extending into the lake. Riparian rights are generally those rights of a landowner whose property abuts a body of inland water. Allegedly, various back-lot owners then began using the waterfront in front of plaintiffs' homes to maintain docks and store boats. Plaintiffs filed suit against the back-lot owners for trespass. The back-lot owners claimed that they had rights to use the waterfront. Significantly, however, the county also filed suit claiming that the plaintiffs had trespassed on Beach Drive by maintaining encroachments on the road, including docks. The county claimed that the plaintiffs did not possess riparian rights because the public held fee title by virtue of the Littleton's dedication of the road to the county in 1911.

Question:

What type of property interest was conveyed to the county by virtue of the dedication by Littleton in 1911?

Answer According to the Trial Court:

The trial court held that the dedication in question gave all rights (fee title) to the local unit of government (public).

Answer According to the Michigan Court of Appeals:

The court of appeals held that a statutory dedication created under the Plat Act of 1887 gave to the public a fee interest for public uses of the road and that Littleton's dedication did not limit the use by the public in the roads.

Answer According to the Michigan Supreme Court:

The Court reviewed many previous decisions of the Michigan Supreme Court in deciding issues related to dedications and reversed the lower courts' decisions. The Court held that the Plat Act of 1887 limits the type of fee conveyed to the public.

According to the Court, the type of fee conveyed under the statute is held "in trust to and for the uses and purposes therein designated, and for no other use or purpose whatever." This type of fee interest is called a base fee. As such, the Court held that a base fee in a public road running parallel to the water has never been held to divest front-lot property owners of their riparian rights.

Question:

Who owns the riparian rights under the facts of this case?


Answer According to the Trial Court:

The court essentially held that the plaintiffs did not own the riparian rights since the local unit of government was conveyed all rights under the dedication.

Answer According to the Michigan Court of Appeals:

The court agreed with the trial court. The court also held that the dedication did not limit the county in the type of use it could make of the public road.

Answer According to the Michigan Supreme Court:

The Court reversed the court of appeals and held that the plaintiffs own the riparian rights. In keeping with its decision that the county had been conveyed a limited or base fee, the Supreme Court held that under the authority of longstanding caselaw, the plaintiffs have riparian rights, "as similarly situated persons have always had in this state." 

Baum Family Trust v Babel, No. 139617 (Dec. 29, 2010)

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