

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RICHARD & MARION SNYDER, §
§
Plaintiffs Below- § No. 408, 2002
Appellants, §
§
v. § Court Below-Court of Chancery
§ of the State of Delaware,
JEHOVAH'S WITNESSES, § in and for Kent County
§ C.A. No. 1423-K
Defendant Below- §
Appellee. §
§

Submitted: January 9, 2003
Decided: February 28, 2003

Before **VEASEY**, Chief Justice, **WALSH** and **HOLLAND**, Justices

ORDER

This 28th day of February 2003, upon consideration of the appellant's opening brief and the appellee's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The plaintiffs-appellants, Richard and Marion Snyder, filed an appeal from the order of the Court of Chancery denying their request for an easement through property owned by defendant-appellee Jehovah's Witnesses.¹ Jehovah's Witnesses has moved to affirm the judgment of the Court of

¹The Court of Chancery issued an oral ruling following trial on June 13, 2002 and later filed a written order dated June 25, 2002.

Chancery on the ground that it is manifest on the face of the Snyders' opening brief that the appeal is without merit. We AFFIRM IN PART and REVERSE IN PART.

(2) For a number of years the Snyders have owned a parcel of approximately 25 acres of real property in the Town of Smyrna, Kent County, Delaware. In December 1989, the Snyders deeded 1.5 of their 25 acres to the Jehovah's Witnesses, Smyrna Congregation. The property was essentially a gift to the congregation, although it appears that taxes and bills owed by the Snyders to the Town of Smyrna were paid by the congregation at the time of the transfer. In 1991, the Jehovah's Witnesses built a Kingdom Hall on their property. In their complaint filed in the Court of Chancery, the Snyders alleged that, due to the location of the Kingdom Hall, they no longer have access to the remainder of their acreage.

(3) At trial, Richard Snyder testified that, at the time the property was transferred to the Jehovah's Witnesses in 1989, he had access to his 25 acres, but once the Kingdom Hall was built in 1991, his access was blocked. On cross examination, however, Snyder admitted that, in 1991, there was access to his property from a public street called First Avenue. Snyder also admitted that, in 1993, he sold a number of acres, including at least a portion of the frontage

on First Avenue that gave him access to his property, to a Delaware corporation named Deland, Inc. When asked if he had not in effect “landlocked [himself],” Snyder responded, “That’s one way of looking at it. That’s not the way I look at it. If you want to call it that, you can.” Snyder also was questioned about a 2002 letter from the Town of Smyrna encouraging the Snyders to discuss with a town representative “other options” for “more regular access” to their property. He admitted that he had never pursued a resolution of his problem with the Town of Smyrna after receiving the letter in 2002 or indeed at any time.

(4) Charles Hopkins testified in the defendant’s case in chief that he was a member of the Jehovah’s Witnesses congregation and had served on the building committee when the Kingdom Hall was built. Hopkins stated that Richard Snyder came to the site before, during and after construction and had never voiced any objection to the location of the building. He also stated that a development of about 20 homes was constructed off of First Avenue several years after the Kingdom Hall was built. Hopkins described the development as a cul-de-sac beginning and ending at First Avenue.

(5) In its ruling from the bench following trial, the Court of Chancery found that the Snyders had failed to present any evidence of an express

easement. The Court of Chancery further found that the Snyders had failed to prove that their property was “landlocked,” but, to the extent that it was, it was their own actions, including their failure to communicate with the Town of Smyrna, that caused the problem. We have reviewed the trial transcript in detail and find no evidence of any error of law or abuse of discretion on the part of the Court of Chancery in deciding this matter as it did.²

(6) As the Snyders correctly point out, however, the Court of Chancery’s oral ruling regarding costs is inconsistent with its written order. While the Court of Chancery expressly ruled following trial that the parties would bear their own costs, its written order provides that the plaintiffs are responsible for paying all the costs. This matter must, therefore, be remanded to the Court of Chancery for the limited purpose of addressing the issue of costs.

(7) It is manifest on the face of the Snyders’ opening brief that, except for the issue of costs, this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, clearly there was no abuse of discretion.

²*Levitt v. Bouvier*, 287 A.2d 671, 673 (Del. 1972).

NOW, THEREFORE, IT IS ORDERED that, except for that portion of the Court of Chancery's judgment regarding costs, the judgment of the Court of Chancery is AFFIRMED. That portion of the judgment related to costs is REVERSED and the matter is REMANDED to the Court of Chancery for further proceedings consistent herewith. Jurisdiction is not retained.

BY THE COURT:

s/ Joseph T. Walsh
Justice