

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

JAMES GORMAN IV, as General
Partner of HOLLYWOOD VINEYARDS
LIMITED PARTNERSHIP,

Respondent,

v.

CITY OF WOODINVILLE,

Petitioner.

No. 85962-1

En Banc

Filed August 16, 2012

J.M. JOHNSON, J.—Washington law is clear that “title by adverse possession cannot be acquired against the state.” *Commercial Waterway Dist. No. 1 of King County v. Permanente Cement Co.*, 61 Wn.2d 509, 512, 379 P.2d 178 (1963). One reason is the statute of limitations for establishing a claim of title through adverse possession cannot run against the government.

RCW 4.16.160 provides, “[N]o claim of right predicated upon the lapse of time shall ever be asserted against the state.” We are asked whether RCW 4.16.160 bars a quiet title action where the claimant alleges he adversely possessed property belonging to a private individual *before* a municipality acquired record title to the land. We hold it does not. We therefore affirm the Court of Appeals and remand for trial to determine the validity of James Gorman’s claim of title.

Facts and Procedural History

James Gorman IV, as general partner of Hollywood Vineyards Limited Partnership, claims title to certain real property through adverse possession. The property at issue, Tract Y, was dedicated to the city of Woodinville (the City) by a private owner in December 2005 for a roadway improvement project. Gorman owns property adjacent to Tract Y. On July 10, 2007, Gorman filed an action to quiet title claiming he acquired Tract Y through a 10-year period of adverse possession that transpired while the land was still in private hands.

The City moved to dismiss under CR 12(b)(6), arguing Gorman’s claim is prohibited by RCW 4.16.160.¹ The trial court granted the City’s motion

and dismissed Gorman's claim. The Court of Appeals reversed. It held Gorman's claim is not barred because it is alleged the statute of limitations ran while the subject land was privately owned. *Gorman v. City of Woodinville*, 160 Wn. App. 759, 765, 249 P.3d 1040 (2011). The Court of Appeals remanded for trial to determine the validity of Gorman's claim of title. *Id.*

Standard of Review

Dismissal of a claim under CR 12(b)(6) is reviewed de novo. *Reid v. Pierce County*, 136 Wn.2d 195, 200-01, 961 P.2d 333 (1998). Dismissal is appropriate only if the complaint alleges no facts that would justify recovery. *Id.* The plaintiff's allegations are presumed to be true, and all reasonable inferences are drawn in the plaintiff's favor. *Id.* at 201.

Analysis

The doctrine of adverse possession permits a party to acquire legal title to another's land by possessing the property for at least 10 years in a manner that is "(1) open and notorious, (2) actual and uninterrupted, (3) exclusive, and (4) hostile." *ITT Rayonier, Inc. v. Bell*, 112 Wn.2d 754, 757, 774 P.2d 6

¹ The City is a Washington municipal corporation. Municipalities acting in a governmental capacity are considered "the state" for purposes of RCW 4.16.160. See *Permanente Cement Co.*, 61 Wn.2d at 512.

(1989) (citing *Chaplin v. Sanders*, 100 Wn.2d 853, 857, 676 P.2d 431 (1984)). Title vests automatically in the adverse possessor if all the elements are fulfilled throughout the statutory period. *El Cerrito, Inc. v. Ryndak*, 60 Wn.2d 847, 855, 376 P.2d 528 (1962) (“When real property has been held by adverse possession for 10 years, such possession ripens into an original title.”).

State-owned land is statutorily protected from claims of adverse possession. Under RCW 4.16.160, the statute of limitations for adverse possession will not run against the State or city acting in its governmental capacity. *Town of West Seattle v. W. Seattle Land & Improvement Co.*, 38 Wash. 359, 80 P. 549 (1905). Whether the government is subject to a previously perfected claim of adverse possession when it acquires property from a private party is an issue of first impression.

The City argues RCW 4.16.160 bars a plaintiff from ever asserting a claim of title acquired through adverse possession against a governmental entity because such claims are “predicated upon the lapse of time.” But, RCW 4.16.160 cannot shield the City under the facts presented here. First of all, RCW 4.16.160 did not prevent the statute of limitations from running

against the prior private owner before the land was dedicated to the City. This grantor could convey to the City whatever interest he had only at the time of the dedication. If the dedicator's title had been extinguished by adverse possession prior to the dedication, he had nothing to convey.

The City points to the fact it is the only named defendant in Gorman's suit to demonstrate this is the type of action barred by RCW 4.16.160. The City claims this undermines the Court of Appeals' conclusion that "the underlying claim here involved only private parties." *Gorman*, 160 Wn. App. at 763. Yet, the City is the proper defendant as the current record title holder of Tract Y. There was no reason for Gorman to join the private landowner who allegedly lost his property to Gorman through adverse possession and purported to transfer whatever interest he had left to the City.

Moreover, Gorman is not asserting a claim "predicated upon the lapse of time"—the type of claim barred by RCW 4.16.160—as against the City. Rather, Gorman claims the requisite period of time *already ran* against the private owner. Gorman's claim against the City is that he holds vested title to the disputed property. Title to the property vested in Gorman's favor if, as the complaint asserts, he fulfilled all the requirements of adverse possession

for at least 10 years before it was dedicated to the City. *Bowden-Gazzam Co. v. Hogan*, 22 Wn.2d 27, 39, 154 P.2d 285 (1944) (quoting *Wheeler v. Stone*, 55 Mass. (1 Cush.) 313, 1848 WL 4244 (1848)).

Title acquired through adverse possession cannot be divested by acts other than those required to transfer a title acquired by deed. This rule was articulated in *Mugaas v. Smith*, 33 Wn.2d 429, 206 P.2d 332 (1949). Ms. Mugaas claimed she acquired title to certain real property through adverse possession. The Smiths countered that Ms. Mugaas lost her claim to the disputed property by ceasing to use the property after the period of adverse possession had transpired. This court disagreed and quieted title in Ms. Mugaas. We held a title obtained through adverse possession is as strong as a title acquired by deed: “it cannot be divested . . . by any other act short of what would be required in a case where [] title was by deed.” *Id.* at 431 (quoting *Towles v. Hamilton*, 94 Neb. 588, 143 N.W. 935 (1913)). Therefore, if Gorman obtained title to Tract Y through adverse possession, his title was not extinguished through the previous owner’s attempt to dedicate the land to the City.

RCW 4.16.160 was enacted to protect the public from losing property

due to the carelessness of civil servants and to shield the government from costly litigation. See Laws of 1986, ch. 305, § 100; *Bellevue Sch. Dist. No. 405 v. Brazier Constr. Co.*, 103 Wn.2d 111, 114, 691 P.2d 178 (1984) (quoting *United States v. Thompson*, 98 U.S. (8 Otto) 486, 489-90, 25 L. Ed. 194 (1878)). The City claims these policies require dismissal of Gorman's suit. But, the policies underlying RCW 4.16.160 are not offended when privately held property is acquired by adverse possession. In these circumstances, title is not lost as a result of the government's failure to monitor its property. Allowing suits like Gorman's will not result in the loss of property properly acquired by the State. Furthermore, the City could have avoided the cost of this litigation by conducting an inspection or survey of the dedicated property to ensure no superior claim to it existed.

The City also argues that Gorman's claim is barred because he failed to bring a quiet title action prior to the City's acquisition of the property. Yet, "[t]he law is clear that title is acquired by adverse possession upon passage of the 10-year period." *Halverson v. City of Bellevue*, 41 Wn. App. 457, 460, 704 P.2d 1232 (1985). The new title holder need not sue to perfect his interest: "[t]he quiet title action merely confirm[s] that title to the land ha[s]

passed to [the adverse possessor].” *Id.*; *see also Ryndak*, 60 Wn.2d at 855.

A quiet title action was not prerequisite to Gorman’s claim against the City.

It simply would have clarified what already exists.

Conclusion

Under the City’s interpretation of RCW 4.16.160, anyone who lost his or her interest in property to an adverse possessor could extinguish the adverse possessor’s vested title by transferring record title to the government. We presume the legislature did not intend such absurd consequences. RCW 4.16.160 does not render title acquired through adverse possession meaningless by operating to revive the prior owner’s estate. If a claimant satisfies the requirements of adverse possession while land is privately owned, the adverse possessor is automatically vested with title to the subject property. The prior owner cannot extinguish this title by transferring record title to the government. We therefore affirm the Court of Appeals and remand for trial to determine the validity of Gorman’s claim of title.

AUTHOR:

Justice James M. Johnson

WE CONCUR:

Justice Charles W. Johnson

Justice Debra L. Stephens

Justice Charles K. Wiggins

Justice Susan Owens

Justice Mary E. Fairhurst
