

9-1-2003

Jenkins v. Bay House Assocs., 581 S.E.2d 510 (Va. 2003)

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implication because a dry ditch could not reasonably be encompassed within the term “waters of the state.” Therefore, the court held the improper instruction constituted harmless error and affirmed the judgment of the trial court.

Holly Shook

VIRGINIA

Jenkins v. Bay House Assocs., 581 S.E.2d 510 (Va. 2003) (holding failure of pleadings to put ownership of pond’s waters in issue precluded circuit court from considering the issue as within general prayer for relief).

This case involved a dispute regarding ownership of Gaskins Pond, including the bed and water within the pond. Bay House Associates (“Bay House”) owned the pond bed in fee simple. Formerly, a small strip of land separated the pond from Chesapeake Bay. In recent years, a small opening within the pond bottom created an outlet allowing the waters to flow freely between Gaskin Pond and Chesapeake Bay. As the opening of the pond grew bigger, many of the neighboring landowners constructed piers grounded in, and extending into, the once isolated pond. Claiming these piers trespassed onto its land, Bay House sent letters to its neighbors requesting immediate removal of the piers. The neighbors did not comply; thus, Bay House sued seeking injunctive relief in the Circuit Court of Northumberland County.

Although Bay House only sought injunctive relief to force removal of the base of the piers from the pond bed, the circuit court granted unrequested relief by finding Bay House to own in fee simple the pond bed *and* the waters of the pond. The issue on appeal to the Virginia Supreme Court was whether the circuit court had authority to grant unrequested relief. The court held a litigant’s pleadings are essential as his or her proof, and a court may not award particular relief unless it is substantially in accord with the case asserted in the pleadings. Furthermore, every litigant is entitled to be told by her adversary in plain and explicit language the grounds of complaint or defense, especially when the respondent has the burden of proof involved in an affirmative defense, such as the case here. Here, the court noted that Bay House requested both specific and general prayers for relief, and further asserted that enjoining the neighbors from using the water of Gaskins Pond was not inconsistent with the specific prayer request regarding land ownership; therefore, the injunction should be upheld. However, a general prayer will support relief only for those matters placed in controversy by the pleadings and, thus, any relief granted must be supported by allegations of material facts in the pleadings that will sustain such relief. Therefore, because Bay House’s request for

relief did not put the ownership of Gaskin Pond's waters at issue, the court held the circuit court erred in granting Bay house fee simple ownership of the waters within Gaskin Pond.

The court ultimately held Bay House's failure to allege ownership of the pond water within the pleadings precluded the circuit court from making a decision on the issue. Viewing the substance of the litigant's pleading with paramount importance, the court reversed the circuit court's holding regarding the water ownership.

Aimee Wagstaff

State Water Control Bd. v. Crutchfield, 578 S.E.2d 762 (Va. 2003)

(holding the Virginia Court of Appeals abused its discretion in denying a request to amend a petition, where the request was timely and the record lent no support to the denial).

Frances B. Crutchfield and her son, Henry R. Broadus (collectively, "Crutchfield"), filed an appeal asking the Circuit Court of the City of Richmond, Virginia, to invalidate a permit the State Water Control Board ("Board") granted to Hanover County. The permit allowed Hanover County to discharge up to ten million gallons per day of treated wastewater into the Pamunkey River adjacent to Crutchfield's property. In response, the Board filed a demurrer asserting Crutchfield lacked standing to pursue an appeal.

The circuit court overruled the demurrer, holding the petitioners alleged standing by claiming injury to the historic sites located on their property. However, the court then dismissed the appeal with prejudice on the ground that Crutchfield failed to establish standing, because she could not demonstrate any actual or imminent injury. The Virginia Court of Appeals reversed the judgment and remanded the case for a hearing on the merits of the petition, holding Crutchfield had standing to challenge the Board's issuance of the permit. The Board and Hanover County appealed from the court of appeals' judgment, and the Supreme Court of Virginia granted certiorari.

Before alleging that Crutchfield lacked standing, the Board attempted to disqualify Crutchfield's appeal on procedural grounds. The Virginia Supreme Court declined to adopt this view, holding the trial court had subject matter jurisdiction in spite of Crutchfield's failure to serve Hanover County as a necessary party at the time she filed her petition for appeal. While the Board urged the court to view this defect as fatal to the case, the court ruled Crutchfield's timely filing of original petition and notice of appeal served to preserve jurisdiction in the court of appeals, which had the discretion to grant leave to amend.

The court next considered the Board's contention that the court of appeals abused its discretion by granting Crutchfield leave to amend the allegations of her original petition in defiance of a local rule