Valley Club of Montecito v. Klein

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Theodore M. Klein appeals from a judgment quieting title in favor of the Valley Club of Montecito (the Valley Club) based on adverse possession. We affirm.

Factual and Procedural Background

The Valley Club golf course has existed in the same configuration since 1929. The 13th and 14th tee encroach upon two areas of an adjoining property. The adjoining property consists of 14 or 15 acres.

In 1985, appellant bought the adjoining property. He discovered the encroachment. In November 1986, he wrote to the Valley Club and its counsel complaining of their adverse and hostile use. The Club did not stop its use and appellant did not take legal action.

The two areas in dispute are the "Tee Area" and the "Cart Path Area." The "Tee Area" includes part of the 14th tee box and a hedge that runs along the south side of that tee box and the south side of the 13th fairway. The "Cart Path Area" includes a golf cart path that runs along the south side of the 14th green and a small area that lies immediately south of that path. The legal descriptions of the two areas appear as Exhibits A and B, respectively, to the Statement of Decision.

In about 2006, the Valley Club paved and widened the cart path, staying within the overall existing encroachment. In January 2007, appellant had a worker sledge hammer the cart path, place herbicide in the area of the 14th tee to discolor the grass, and move a water dispensing unit that had been in the same location for at least 21 years.

The Valley Club filed this action to quiet title based either on adverse possession or prescriptive easement and for injunctive relief and damages for trespass. Appellant cross-complained for quiet title and damages. The court bifurcated the action and tried the equitable claims first without jury.

The Valley Club presented testimony of its golf course superintendant, its golf professional since 1977, a land surveyor and several members. Appellant testified as an adverse witness. The court

conducted a site inspection.

The trial court found in favor of the Valley Club on all of the equitable claims. It found that the Valley Club had acquired title to the encroachment through adverse possession. Alternatively, the court found that the Valley Club had a prescriptive easement for exclusive use of the disputed areas. The court granted a permanent injunction enjoining appellant from entering the disputed areas. The court entered judgment granting the Valley Club fee simple title in the disputed areas and enjoining appellant from entry.

DISCUSSION

Appellant contends that the finding of adverse possession was not supported by evidence that the Valley Club paid taxes on the disputed areas and that the adjudicated boundaries were not supported by the evidence. With respect to the prescriptive easement, he contends that the court erred by finding it to be exclusive. We reject the first contention and therefore do not reach the second.

We examine the sufficiency of the evidence to support the trial court's factual findings. In doing so, we must accept as true all evidence that supports the finding, making all inferences which might reasonably support the trial court's conclusions. We resolve every conflict in the evidence in favor of the finding. (David v. Herman (2005) 129 Cal.App.4th 672, 687.)

Adverse Possession

A judgment of adverse possession requires proof of five elements: (1) actual possession with reasonable notice to the owner; (2) hostile to the owner's title; (3) with a claim of right or title; (4) for five years without interruption; and (5) payment of taxes levied and assessed upon the property during that period. (Dimmick v. Dimmick (1962) 58 Cal.2d 417, 421.) Appellant challenges only the sufficiency of evidence of payment of taxes.

Usually, adjoining property owners of lots assessed by parcel number cannot prove adverse possession because they cannot establish payment of taxes. (Gilardi v. Hallam (1981) 30 Cal.3d 317, 326.) But where the claimant has constructed valuable improvements or built fences showing visible occupation, an inference may be drawn that the assessor based the assessment on the visible boundary rather than the record boundary. (Id. at p. 327; Raab v Caspar (1975) 51 Cal.App.3d 866, 878.)

Here, the trial court drew such an inference. It found that "the county tax assessor did not base his assessment on the property descriptions of record, but instead based and valued his assessment upon the land and improvements visibly occupied by the Valley Club." Substantial evidence in the record, including, we assume, the court's personal observations on its site visit, supported the finding that the Valley Club constructed valuable improvements showing occupation of the disputed areas. This supported the inference that the assessor valued the Valley Club's land based on the apparent, rather

than record, boundary.

Appellant contends that the inference is unavailable because the Valley Club did not prove that it paid any property taxes. The Valley Club did not submit documentary proof of payment of its assessed property taxes and no witness testified to payment. Presentation of such proof may have been the better trial practice, but there was substantial evidence to support an inference that the Valley Club owned the property of record and had paid its property taxes during the prescriptive period. We must accept as true all logical inferences in support of the judgment that may be drawn from the evidence. (Shamblin v. Brattain (1988) 44 Cal.3d 474, 478-479.) The Valley Club presented evidence of uninterrupted operation as a golf course for almost 80 years. A surveyor testified that he had obtained a title report and determined that the golf course was on land owned by the Valley Club. The court personally observed the current operation on the site. From these facts, the court could logically draw the inference that the Valley Club had not failed to pay its property taxes.

Code of Civil Procedure Section 634

Appellant contends that we may not infer that the Valley Club paid taxes because the trial court did not identify evidence supporting such an inference in response to appellant's request that it do so. (Code Civ. Proc. § 634.) We disagree because the court expressly found that the Valley Club paid taxes, and the court was not required by section 634 to list the evidence in support of that finding.

"When a statement of decision does not resolve a controverted issue, or if the statement is ambiguous and the record shows that the omission or ambiguity was brought to the attention of the trial court . . . it shall not be inferred on appeal . . . that the trial court decided in favor of the prevailing party as to those facts or on that issue." (Code Civ. Proc., § 634.)

Here, we are not precluded from drawing supporting inferences from the evidence because the statement of decision resolved all controverted issues and expressly and unambiguously stated that the Valley Club had paid taxes on the disputed areas. The court found that "the Valley Club has paid all property taxes on the Tee Area and Cart Path Area for the minimum five-year statutory period. This finding is based upon an inference, established by a line of cases including but not limited to Raab v. Caspar, supra, 51 Cal.App.3d 866, that the county tax assessor did not base his assessment on the property descriptions of record, but instead based and valued his assessment upon the land and improvements visibly occupied by the Valley Club."

Appellant's written objections did not point out any omission or ambiguity with respect to the tentative findings. Instead, appellant asked the court to list evidence in support of its findings: "What evidence is there that [the Valley Club] paid taxes on the Tee Area and Cart Path Area for the minimum five-year statutory period? On what facts does the court rest its inference that the Santa Barbara County Assessor valued the assessment upon the land and improvements visibly occupied by [the Valley Club]? What visible evidence was there that [the Valley Club] occupied that portion of the

'Tee Area' beyond what was described in the 1978 Penfield & Smith survey? What visible evidence was there that [the Valley Club] occupied that portion of the 'Cart Path Area' beyond what was described in the 1978 Penfield & Smith survey?"

The court was not required to list supporting evidence. "[F]indings must state ultimate facts; they should not relate the evidentiary facts relied upon by the court to reach the ultimate facts." (Seeley v. Combs (1966) 65 Cal.2d 127, 132 [finding as to cause of fire was supported by inference drawn under the doctrine of res ipsa loquitur, and was sufficient to satisfy a request for specific findings pursuant to section 634.])

Boundaries

Appellant challenges the adjudicated boundaries, arguing that the area south of the hedge was used by the Valley Club as its own, or that there was no proof that the widened cart path had been used for the prescriptive period. The record does not support the contention.

Several Valley Club members acknowledged that once they got through the hedge they might be on the neighbor's property. They testified that they considered the property on the other side of the hedge running along the 13th fairway (the "Tee Area") to be the neighbor's property. The boundary proposed by the Valley Club, and adopted by the court, does not include the property beyond the hedge. It stops at the south edge of the hedge. The inclusion of the entire hedge was supported by substantial evidence. Historically, the hedge has been trimmed, fertilized and irrigated by the Valley Club greens keepers as part of the regular grooming and manicuring of the course.

With respect to the cart path, substantial evidence supported a finding that the Valley Club had uninterrupted possession of the entire disputed area for the prescriptive period. Although the path was widened from six or seven feet to seven or eight feet within the prescriptive period, a much wider area had been used for at least thirty years. The Valley Club's witnesses testified that the area was used exclusively by the Valley Club throughout the prescriptive period as a roadway for utility vehicles, fairway mowers, tree trimming trucks and other maintenance vehicles, as well as golf carts. It was the only area used to move these vehicles from one side of the course to another. The tree trimming trucks were nine feet wide.

DISPOSITION

The judgment is affirmed. Respondent is awarded costs on appeal.