IN THE COURT OF APPEALS OF TENNESSEE
AT JACKSON
On-Briefs October 10, 2003

EDNA C. BROOKS, ET AL. v. OPAL GREEN RANSOM, ET AL.

A Direct Appeal from the Circuit Court for Haywood County
No. 3415 The Honorable Clayburn L. Peeples, Judge

No. W2003-01783-COA-R3-CV - Filed October 29, 2003

This is a wrongful death case premised on a landlord's violation of T.C.A. § 68-102-151 (smoke detector statute) as the proximate cause of the death of several occupants of the structure when it caught fire. The trial court granted defendant summary judgment, holding the statute is not applicable. Plaintiffs appeal. We affirm.

Tenn. R. App. P. 3; Appeal as of Right; Judgment of the Circuit Court Affirmed

W. FRANK CRAWFORD, P.J., W.S., delivered the opinion of the court, in which ALAN E. HIGHERS, J. and DAVID R. FARMER, J., joined.

Duncan E. Ragsdale, Memphis, For Appellants, Edna C. Brooks, Ruby Bonds, Peggy Theus, Maybell Lillard, Rosie Carney, Ernestine Banks, James Carney, Joe Somerville, Jessie Somerville, Debra Somerville, for themselves and as Next of Kin to Gladys Somerville, Artavious Somerville, Deceased and Alexis Somerville, a minor

Larry S. Banks, Brownsville, For Appellee, Opal Green Ransom

OPINION

On January 11, 1999, Opal Green Ransom ("Ransom" or "Defendant") was the owner of the real property located in Haywood County, Tennessee, on which a house designated as 393 Shepp Road (the "House") was located. The House was a wooden structure divided into four rooms–a den, kitchen, and two sleeping rooms with no indoor plumbing and no indoor bathroom. Ransom rented the House to Gladys Somerville for $25 per month.

On January 11, 1999, a fire broke out at the House due to the wood-burning stove's door being left ajar or coming open. There was no smoke detector installed in the House. As a result of the fire, Antavious Somerville (age 4) and Artavious Somerville (age 2) died at the scene of smoke inhalation and burns. Gladys Somerville (age 63) was able to carry her granddaughter, Alexis

Somerville (age 1) out of the house. Alexis Somerville suffered minor injuries. Gladys Somerville was hospitalized for 42 days before finally succumbing to the injuries she sustained in the fire.

On January 5, 2000, Edna Brooks, Ruby Bonds, Peggy Theus, Maybell Lillard, Rosie Carney, Ernestine Banks, James Carney, Jessie Somerville, Debra Somerville and Joe Somerville, for themselves and as Next of Kin to Gladys Somerville, Artavious Somerville and Antavious Somerville, Deceased, and Alexis Somerville, a minor (collectively the "Plaintiffs") filed suit against Mollie Green and Opal Green Ransom.[1] The Complaint alleges that Ransom violated T.C.A.§68-102-151 by failing to install a working smoke detector in the House. T.C.A. §68-102-151 (2001) reads, in pertinent part, as follows:

> **68-102-151. One-family or two-family rental units–Smoke detectors required.–** (a) As used in this section, unless the context otherwise requires:
> (1) "Approved smoke detector" means a device which senses visible or invisible particles of combustion and which has been investigated and listed in accordance with standards prescribed by:
> (A) A nationally recognized and approved independent testing agency or laboratory, such as Underwriters' Laboratories' Standard for Single and Multiple Station Smoke Detectors (UL 217); or
> (B) An agency authorized to make independent inspections by the state fire marshal; and
> (2) "A one-family or two-family rental unit" means any rental building containing one (1) or two (2) living units with independent cooking and bathroom facilities, whether designated as a house, cottage, duplex, condominium or by any other name.
>
> (b) Notwithstanding the provisions of chapter 120 of this title, or any other laws to the contrary, it is unlawful to:
> (1) Own or operate a one-family or two-family rental unit without installing an approved smoke detector in each living unit; when activated, the detector shall initiate an alarm which is audible in the sleeping rooms of the living unit;

Ransom's Answer, filed on March 20, 2000, admits that she was the owner of the House, that T.C.A. §68-102-151 was in effect on January 11, 1999, and that there was no smoke detector installed in the House but denies that T.C.A. §68-102-151 is applicable to the subject house. On February 26, 2002, Ransom filed a Motion for Summary Judgment supported by her affidavit, which states in relevant part:

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[1] Mollie Green is Opal Green Ransom's mother and the original owner of the House. Mollie Green died in 1973, leaving the House to her daughter. Opal Green Ransom is the only Defendant/Appellee herein.

> This [the House] was a very rustic and unimproved residence and the rent was only $25.00 per month. This house did not have any inside plumbing or water supply, and the only water supply was an outside, non-electric well which you had to manually pump and draw water from for use. This house also did not have any inside bathroom facilities. To my knowledge, Mrs. Somerville used her sister's facilities across the road from this house. The lack of a smoke detector was evident to Mrs. Somerville, and there had never been a smoke detector in said residence.

On May 16, 2003, Plaintiffs filed a Motion to Amend the Complaint by alleging that Ransom, in addition to violating T.C.A. §68-102-151, also violated the Standard Building Code of 1997.[2] The Motion to Amend was never acted upon by the court but, in an abundance of caution, Ransom filed the Affidavit of John S. Sharp, Jr., Chairman of the Haywood County Commission, who stated that the Standard Building Code of 1997 was not adopted and in effect in Haywood County, Tennessee, on January 11, 1999.[3] Plaintiffs' Response to Defendant's Motion for Summary Judgment avers that the Motion does not comply with the Tenn. R.Civ. P. 56, that there are disputed issues of fact, that the Defendant violated the Standard Building Code of 1997, which was in full force and effect, and that the subject property was a one-family rental unit within the meaning of T.C.A. § 68-102-151.

Ransom's Motion for Summary Judgment was heard on June 5, 2003. An Order granting Ransom's Motion for Summary Judgment was entered on June 10, 3003. The Order reads, in relevant part, as follows:

> THIS CAUSE came to be heard before the Honorable Clayburn L. Peeples, Judge, on the 5th day of June, 2003 at Brownsville, Tennessee, upon the Motion For Summary Judgment of Defendant, Opal Green Ransom, the Memorandum in support of the Motion for Summary Judgment, upon Plaintiffs' response to Motion for Summary Judgment, statement of facts submitted by both parties, deposition of Opal Green Ransom, Affidavit of John S. Sharp, Jr.,

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[2] The Standard Building Code of 1997 provides:

> **905.2.2** In dwellings and dwelling units, a smoke detector shall be mounted on the ceiling or wall at a point centrally located in the corridor or area giving access to each group of rooms used for sleeping purposes. Where the dwelling or dwelling unit contains more than one story, detectors are required on each story including basements, but not including uninhabitable attics, and shall be located in close proximity to the stairway leading to the floor above.

[3] The Affidavit of John S. Sharp, Jr. states that "the [Haywood] County Commission adopted the Southern Standard Building Code, version 1999 at its meeting on November 20, 2000." Mr. Sharp further stated that "I do not find that the Southern Standard Building Code of 1997 had been adopted by the County prior to January 11, 1999."

> upon oral argument of counsel and filed upon the entire record from all of which the court finds that the Motion for Summary Judgment is well taken and should be granted.
>
> IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that said Motion For Summary Judgment filed by Defendant, Opal Green Ransom is hereby granted.

Plaintiffs appeal from this Order and raise the following issue for review, as stated in their brief: Did the trial court misinterpret the meaning of "one-family rental unit" as defined by T.C.A. §68-102-151 and commit an error by granting Defendant's Motion for Summary Judgment?

A motion for summary judgment should be granted when the movant demonstrates that there are no genuine issues of material fact and that the moving party is entitled to a judgment as a matter of law. ***See*** Tenn. R. Civ. P. 56.04. The party moving for summary judgment bears the burden of demonstrating that no genuine issue of material fact exists. ***See Bain v. Well***, 936 S.W.2d 618, 622 (Tenn. 1997). On a motion for summary judgment, the court must take the strongest legitimate view of the evidence in favor of the nonmoving party, allow all reasonable inferences in favor of that party, and discard all countervailing evidence. ***See Id.*** In ***Byrd v. Hall***, 847 S.W.2d 208 (Tenn. 1993), our Supreme Court stated:

> Once it is shown by the moving party that there is no genuine issue of material fact, the nonmoving party must then demonstrate, by affidavits or discovery materials, that there is a genuine, material fact dispute to warrant a trial. In this regard, Rule 56.05 provides that the nonmoving party cannot simply rely upon his pleadings but must set forth *specific facts* showing that there is a genuine issue of material fact for trial.

Id. at 210-11 (citations omitted) (emphasis in original).

Summary judgment is only appropriate when the facts and the legal conclusions drawn from the facts reasonably permit only one conclusion. ***See Carvell v. Bottoms***, 900 S.W.2d 23, 26 (Tenn. 1995). Because construction of a statute involves legal issues, it is particularly suited to disposition by summary judgment. ***See King v. Pope***, 91 S.W.3d 314, 318 (Tenn. 2002); ***Ki v. State***, 78 S.W.3d 876, 879 (Tenn. 2002); ***State v. McKnight***, 51 S.W.3d 559, 563 (Tenn. 2001). Since only questions of law are involved, there is no presumption of correctness regarding the trial court's grant of summary judgment. ***See Bain***, 936 S.W.2d at 622. Therefore, our review of the trial court's grant of summary judgment is ***de novo*** on the record before this Court. ***See Warren v. Estate of Kirk***, 954 S.W.2d 722, 723 (Tenn. 1997).

The material facts are undisputed in this case. Ransom admits that there was no smoke detector installed in the House at the time of the fire. All parties also agree that T.C.A. §68-102-151

was in full force and effect on January 11, 1999. It is undisputed that the House was rustic and that it had no indoor plumbing or any indoor or outdoor bathroom facilities. The first criterion for granting summary judgment (i.e. no dispute of material facts) is, therefore, met in this case. The appropriateness of summary judgment here rests on the question of whether T.C.A. §68-102-151 is applicable to this case. If the statute is applicable, Ransom had a duty to install a smoke detector and summary judgment in favor of Ransom was not appropriate. If, however, the statute is inapplicable, Ransom had no such duty and was, therefore, entitled to summary judgment as a matter of law. This determination hinges upon the interpretation of T.C.A. §68-102-151(a)(2):

> "A one-family or two-family rental unit" means any rental building containing one (1) or two (2) living units with independent cooking and bathroom facilities, whether designated as a house, cottage, duplex, condominium or by any other name.

Ransom contends that the statute clearly requires the building to contain both a kitchen and a bathroom facility in order to qualify as a "one-family or two-family rental unit" subject to smoke detector requirements under T.C.A.§68-102-151. Because the House at issue in this case had no bathroom facility, Ransom contends that T.C.A. §68-102-151 was inapplicable.

Plaintiffs, on the other hand, argue that T.C.A. §68-102-151 should be considered *in pari materia* with similar statutes related to the installation of smoke detectors. Given such a reading, Plaintiffs urge that T.C.A. §68-102-151 can only be interpreted to mean that any building that provides sleeping accommodations fits the definition of a one-family rental unit. Furthermore, Plaintiffs assert that whether or not the House had a bathroom is irrelevant to the intent of the legislature. Consequently, Plaintiffs contend that T.C.A. §68-102-151 is applicable.

We agree with Appellants that, when interpreting a statute, the role of the Court is to "ascertain and give effect to the legislative intent." ***Sharp v.. Richardson***, 937 S.W.2d 846, 850 (Tenn.1996). However, in the absence of ambiguity, legislative intent is derived from the face of a statute, and the Court may not depart from the "natural and ordinary" meaning of the statute's language. ***Westland West Community Ass'n. v. Knox County***, 948 S.W.2d 281, 283 (Tenn.1997). When a statute is without contradiction or ambiguity, there is no need to force its interpretation or construction, and courts are not at liberty to depart from the words of the statute. ***Hawks v. City of Westmoreland***, 960 S.W.2d 10, 16 (Tenn.1997). Moreover, if "the language contained within the four corners of a statute is plain, clear, and unambiguous, the duty of the courts is simple and obvious, 'to say *sic lex scripta*, and obey it.'" ***Id***. (quoting ***Miller v. Childress***, 21 Tenn. (2 Hum.) 320, 321-22 (1841)). Therefore, "[i]f the words of a statute plainly mean one thing they cannot be given another meaning by judicial construction." ***Henry v. White***, 194 Tenn. 192, 198, 250 S.W.2d 70,72 (1952). Finally, it is not for the courts to alter or amend a statute. ***See Town of Mount Carmel v. City of Kingsport***, 217 Tenn. 298, 306, 397 S.W.2d 379, 382 (1965); ***see also Richardson v. Tennessee Bd. of Dentistry***, 913 S.W.2d 446, 453 (Tenn.1995); ***Manahan v. State***, 188 Tenn. 394, 397, 219 S.W.2d 900, 901 (1949). Moreover, a court must not question the "reasonableness of [a] statute or substitut[e][its] own policy judgments for those of the legislature." ***BellSouth***

Telecomms., Inc. v. Greer, 972 S.W.2d 663, 673 (Tenn.Ct.App.1997). Instead, courts must "presume that the legislature says in a statute what it means and means in a statute what it says there." ***Id.*** Accordingly, courts must construe a statute as it is written. ***See Jackson v. Jackson***, 186 Tenn. 337, 342, 210 S.W.2d 332, 334 (1948).

The statutory definition of "one-family and two-family rental unit" at issue in this case is not ambiguous. The legislature's decision to include the language "with independent cooking and bathroom facilities," and its use of the conjunctive "and" can only be construed to mean that the dwellings that fall under the statute must contain both cooking and bathroom facilities. Since the language of the statute is plain and unambiguous, this Court must interpret it as written. Because the House at issue in this case undisputedly contained neither an indoor nor an outdoor bathroom facility, we find that T.C.A. §68-102-151 is inapplicable.

The Order of the trial court, granting Ransom's Motion for Summary Judgment is affirmed. Costs of this appeal are assessed equally to the Appellants, Edna Brooks, Ruby Bonds, Peggy Theus, Maybell Lillard, Rosie Carney, Ernestine Banks, James Carney, Jessie Somerville, Debra Somerville, Joe Somerville, and their respective sureties.

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W. FRANK CRAWFORD, PRESIDING JUDGE, W.S.