

Leitz v. Thorson

Court of Appeals of Oregon, 1992
113 Or.App. 557, 833 P.2d 343

FACTS Plaintiffs leased commercial space from the defendant to open a florist shop. After the lease was executed, the plaintiffs learned that they could not place a freestanding sign along the highway to advertise their business because the Deschutes County Code allowed only one freestanding sign on the property, and the defendant already had one in place. The plaintiffs filed this action, alleging that defendant had breached the lease by failing to provide them with space in which they could erect a freestanding sign. Paragraph 16 of the lease provides as follows: "Tenant shall not erect or install any signs . . . visible from outside the leased premises with out [*sic*] the previous written consent of the Landlord." The trial court allowed the plaintiffs to introduce evidence that, before the lease was executed, the defendant told them that they could have a freestanding sign. The defendant objected to the testimony on the basis of the parol evidence rule and brought this appeal.

DECISION Affirmed; the evidence was properly admitted.

OPINION The parol evidence rule is a rule of integration. It prohibits oral evidence of those aspects of the bargain that the parties intended to memorialize in their written agreement. If the parties did not intend the writing to represent their entire agreement, the agreement is only partially integrated, and prior consistent additional terms not evidenced by the writing may still form part of

the entire agreement. An oral agreement is not integrated in a contemporaneous writing if it is not inconsistent with the written agreement and is such an agreement as the parties might naturally make as a separate agreement. We start with a presumption that the parties intend the writing to be a complete integration. The integration clause in this lease indicates that the lease was intended to be a complete agreement, but it is not conclusive. Defendant testified that he told plaintiffs that they could have a sign and that he did not require them to obtain his written consent, despite the words in paragraph 16 of the lease. There was evidence to support the trial court's holding that the parties did not intend the written lease to reflect their entire agreement, thereby overcoming the presumption of integration. The next question is whether a separate oral agreement to allow a freestanding sign was inconsistent with the written lease. No provision of the lease prohibits a freestanding sign; thus, the disputed parol evidence was not inconsistent with the written agreement. The evidence is therefore admissible.

INTERPRETATION The parol evidence rule applies only to an integrated contract (i.e., one where the parties intend the writing to represent their complete agreement).

CRITICAL THINKING QUESTION Do you agree with the parol evidence rule? Explain.