

1-1-2004

Lovitt v. Robideaux, 78 P.3d 389 (Idaho 2003)

J. Reid Bumgarner

Follow this and additional works at: <https://digitalcommons.du.edu/wlr>

Custom Citation

J. Reid Bumgarner, Court Report, Lovitt v. Robideaux, 78 P.3d 389 (Idaho 2003), 7 U. Denv. Water L. Rev. 512 (2004).

This Court Report is brought to you for free and open access by the University of Denver Sturm College of Law at Digital Commons @ DU. It has been accepted for inclusion in Water Law Review by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

IDAHO

Lovitt v. Robideaux, 78 P.3d 389 (Idaho 2003) (holding district court could not adjudicate rights of the parties because the parties failed to establish their littoral rights by failing to exhaust their administrative remedies, and that use of locked gate unreasonably limited the nature and scope of prescriptive easement).

In 1997, Robert and Judy Lovitt (“Lovitts”) filed suit against Robert and Karen Robideaux (“Robideauxs”) in Kootenai County District Court. The Lovitts sought a declaratory judgment to establish each party’s littoral rights, injunctions requiring the removal of shoreline pilings and preventing future littoral right infringement, and to quiet title of a separate driveway through a prescriptive easement. The Robideauxs counterclaimed and sought to quiet title to the location of their pilings and dock, relocation of the Lovitts’ dock, and the right to use a locked gate across a driveway easement. The district court found: (1) the parties failed to show sufficient evidence to establish their littoral rights, (2) it lacked authority to adjudicate the parties’ rights because the parties failed to exhaust administrative remedies before the Departments of Land (“Department”), and (3) the Lovitts’ use of the driveway to access Lot 111 established an easement by prescription.

The parties were neighbors in the Hayden Lake Cottage Tracts on Hayden Lake, Kootenai County, Idaho. The Robideauxs owned Lots 112, 113 and 114. The Lovitts owned Lot 111, which was adjacent to Lot 112. All lots were located on Lee’s Bay. The bay had a “V” shape, which opened to the north. A sand bar of variable depth extended across the bay’s 400-foot wide mouth. Lot 111 was situated on the northwest shore of Lee’s Bay with part of its shoreline along the bay and part along the open lake. The Robideauxs’ Lots 112, 113, 114 were situated southeast of Lot 111 along the western shore of the “V” shaped bay. All of Robideauxs’ shoreline was along Lee’s Bay.

Since the 1940s, the Lovitts and their predecessors in interest maintained a dock on the shoreline of Lot 111. Sometime after 1997, the Robideauxs relocated their dock to a position north of the Lovitts’ dock on Lot 111 (“point dock”) with the Lovitts’ permission. The relocation placed the Robideauxs’ dock near the mouth of Lee’s Bay floating above the sandbar. Around the time of the relocation, the Robideauxs built a second dock off the shoreline of Lot 112. Both families used point dock for a period of years. In 1993, the families had a falling out after the Robideauxs placed pilings into the lakebed off the point of the Lovitts’ property. Consequently, the Lovitts revoked the Robideauxs’ permission to maintain the point dock. The revocation prompted the Robideauxs to obtain a permit for a dock and shore ramp on Lot 112; the Robideauxs planned to build the shore ramp directly over the Lovitts’ dock.

In addition, the dock issue provoked a separate dispute concerning a recorded easement. The recorded easement provided roadway access across Lots 112 and 113 to all lots west including Lot 111. Since the 1940s, however, the Lovitts and their predecessors in interest used a separate driveway to access Lot 111. The separate driveway crossed Lots 112 and 113 but was not part of the recorded easement.

On review, the Idaho Supreme Court cited the Lake Protection Act (“Act”) as legislation that authorized the Department to issue and deny permits for navigational encroachments such as docks. The court explained littoral rights refer to the rights of owners of land adjacent to navigable waters to maintain their adjacency by building navigable encroachments such as docks and pilings. The court stated the Act authorized owners of property next to a navigable lake to apply for a permit to construct a dock to reach the navigable waters. The Act bars a permit holder from locating a dock to infringe upon an adjacent landowner’s littoral right without written consent or proper notice. The court further explained the Act empowered the Department to determine whether a permit infringed upon the littoral rights of an adjoining riparian landowner. The court emphasized the Department’s expertise and experience in such matters was most appropriate to determine the proper placement of docks. In particular, the court noted the Act clearly contemplated the Department’s ability to determine littoral rights when infringement issues arose because of the planned placement of a dock. For these reasons, the court held the parties failed to exhaust their administrative remedies before the Department.

As to the easement dispute, the court noted that Idaho law required that use of a gate, or any other method of regulating an easement, by the owner of the servient estate must be reasonable. The court determined the Robideauxs’ use of a gate across the easement was unreasonable because gate use began in an effort to spite the Lovitts. The court noted that neither the Robideauxs nor their predecessors in interest saw any need to gate the driveway until the dock dispute arose. As such, the court concluded the locked gate was unreasonable.

In sum, the court affirmed the district court’s rulings and held that the parties failed to establish their littoral rights since they did not exhaust administrative remedies. The court also held sufficient evidence existed to enjoin the Robideauxs from use of locked gate because the gate limited both the nature and scope of the Lovitts’ prescriptive easement.

J. Reid Bumgarner