

FILED

MAY 21 2012

COURT OF APPEALS
DIVISION III
STATE OF WASHINGTON
By _____

NO 304132

COURT OF APPEALS, DIVISION III

RANDALL LEESTMA, Appellant

V.

WILLIAM ROBERTS and
WANDA ROBERTS, Respondent

Brief of Appellant

RANDALL LEESTMA PROSE

14932 Westside Callispell Rd.

COSICK WA 99119

504-445-0771

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Introduction

Leestma, on Dec 16, 2005, discovers facts sufficient to understand a bait and switch real property transaction, makes a demand of Roberts on March 31, 2006. Having trouble keeping his case moving, at a hearing, June 9, 2011, communicates the same. He could not make attorneys write the complaint to introduce facts. The first was that he knew only one fact of fraud before closing the contract and had gone to an attorney about it.

This was to make the Court aware of the facts, but were not part of the written files reviewed for hearing Oct, 20, 2011.

II. Assignment of Error

The court erred in granting the order:
Defendants motion for summary judgement
is granted the case dismissed with prejudice.

o issues pertaining to Assignments
of Error

Leestma's complaint was written for the
later discovered bait and switch real property
transaction. Following Roberts defence
a chronology of discovery would lead
to facts tolling the statute of limitations.
The amended complaint was never written
including them, through no fault of Leestma
were Leestma's communications with the
court evidence enough to be notice that
he was fulfilling a duty to invest gate,

of which the dismissing Court was unaware, for the appellate court to reverse the order.

III Statement of the Case

At a hearing of a motion, June 9, 2011, Leestma made the court aware, RP17, he was having trouble getting the amended complaint written, RP10, which included the fact he went to an attorney knowing only one fact of fraud before closing the contract, RP14. The court recognized everyone makes mistakes, RP14, but Leestma couldn't get investigations going, RP15, leaving him thinking he would have to learn to practice law, RP17.

Prior to Leestma's purchase Roberts prepared an unrecorded short plat and represented Parcel "B" for the sale. CP2; however the contract put it as the parcel not with the home he lived in at the time, CP6.

Entering the contract, Roberts would be completing the short plat, acquiring by ordinance 77-1, CP 23, 24, Appendix A1, the plat standard duty to disclose to Leestma the division of land through the contract interest consent by notarized acknowledged certificate thereon.

Roberts created a receipt document that falsely communicated disclosure had been made, RP27, CP51, when the contract was entered, CP3, CP10.

Leestma had relied on its truthfulness when consulting an attorney about the fact of fraud he knew, RP14.

Crisman v Crisman 85 Wash App 15,
" To establish fraudulent concealment or misrepresentation which activates the statutory discovery rule for fraud, Plaintiff may show nine elements of fraud or simply show the Defendant breached an affirmative duty to disclose a material fact."

CP68.

Roberts breached an affirmative duty to disclose the division of land pursuant ordinance 77-1, CP68, then fraudulently makes the receipt document Leestma on which Leestma ignorantly relied closing the contract, CP3.

in October 2002 Leestma discovered an easement encumbering the conveyance and investigated persistently until he discovered the bait and switch, CP16,17, CP52, RP15.

The court dismissing speaks of and its finding is for a duty to investigate, RP32-37, which Leestma did in large measure, RP10-17, concluding he may have to learn to practice law besides.

IV Summary of Argument

The prosecution is to get Roberts rooted to his defence then impeach his credibility with evidence against him.

V. Argument

Roberts impeaches himself in his legal memorandum by falsely reconstructing the contract's terms and conditions to explain where the Quit Claim Deed came to be, CP40 (footnote), creating a false paragraph. When Leestma negated the truly constructed terms and conditions as Roberts did not lease the property the purchase price did not change

and there was no legal consideration for said deed, CP 51, 52, 59.

Roberts falsely reconstructs the receipt document, CP 10, in his defence, CP 61, to the recorded short plat that did not exist, CP 40 when the contract was entered on October 16, 1998, CP 64

The contract obfuscates the fact there was an unrecorded short plat when the contract was entered, but clearly states Leestma is not purchasing the home where Roberts lives, CP 69, CP 6, reconstructing the single word "approximately" to mean the contract was not based on the short plat that already divided the land, CP 61

Roberts claims he permitted an access road that was in existence when he purchased the real property, CP49, CP122.

These are a few within the constraints of summary judgement.

VI Conclusion

Leestma's duty to investigate any falsity causing harm was acted on. The burden became greater and greater when prosecution stalled.

Leestma here by makes appeal to reverse the Superior court's order, on the 20th day of October 2011, To DISMISS.

MAY 18, 2012

Respectfully submitted
Davidall Leestma

Appendix

A-1 ordinance 77-1 section 12

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SECTION 9 SURVEY

At least a compass survey conducted by or under the supervision of a registered land surveyor shall be made of the short subdivision. The method of survey, and by whom, shall be placed on the plat.

The approximate corners shall be marked with a 4" x 4" metal plate on which shall be inscribed the lot number and approximate corner.

SECTION 10 DEDICATION

Land for public use shall be dedicated on the face of the plat or by a separate written instrument and signed and acknowledged before a notary public by all parties having any ownership interest in the lands subdivided and recorded as part of the final plat. (Amended January 25, 1982)

- (A) Indicating land for public use.
- (B) Reserving land for future public acquisition and development.
- (C) Conveying land or easements therein to nonprofit corporations for use by all or a limited segment of the public.

SECTION 11 HEALTH STANDARDS

- (A) No dwelling may be constructed or located on a lot or tract prior to the approval of a domestic water source acceptable to the Jurisdictional Health District.
- (B) No dwelling may be established on a lot or tract prior to the approval of a sewage disposal method acceptable to the Jurisdictional Health District.
- (C) Any parcel under two (2) acres shall require an approved water source and an approved sewage disposal method before approval of the plat.

SECTION 12 SHORT SUBDIVISION, PLAT STANDARDS

Every short plat shall consist of one or more pages, 24" x 36", clearly and legibly drawn on tracing cloth, stable base mylar polyester film or equivalent approved material. All drawings and lettering on final plat shall be in permanent black ink or an approved equivalent material. A 3" margin shall be left on the left hand margin. The horizontal scale shall be 100 feet to the inch or other scale as may be authorized by the Administrator, together with written data in such form that when read together disclose the following information:

- (A) The legal description of the land and name of subdivider.
- (B) A certificate bearing the typed or printed names of all persons having an interest in the divided land, signed and acknowledged by them before a notary public which:

1. States their consent to the division of the land.
 2. If a dedication is involved, recites a dedication by them of all land shown on the plat to be dedicated for public use.
 3. List of covenants.
 4. Grants a waiver by them and their successors, of all claims for damages against any governmental authority, arising from the construction and maintenance of public facilities and public property within the short subdivision.
- (C) Title Report for Subdivision Approval.
- (D) The following persons shall examine and sign the plat; indicating compliance:
- a. Treasurer, b. Assessor, c. County Engineer, d. Health Officer shall certify to the existing conditions, e. Administrator, f. Auditor, g. Planning Commission Chairman or his designate.
- (E) The approval of the Board of County Commissioners.
- (F) The name and signature of the registered land surveyor who made or under whose direction was made, a survey of the short subdivision.
- (G) The date of the survey.
- (H) The boundary lines of the short subdivision.
- (I) The boundaries of lots within the short subdivision.
- (J) The location of roads and existing important natural features and improvements within the short subdivision.
- (K) A layout of roads and easements, (proposed) including all existing and planned approaches.
- (L) The boundaries of all parcels dedicated or reserved for public or community uses, if any.
- (M) Plans of proposed water distribution systems, sewage disposal systems and drainage systems, if required.

SECTION 13 TITLE INSURANCE

When title insurance is requested for a lot divided under this ordinance, the title company shall furnish a list of the recorded covenants, with the preliminary and final title policy.