

Insights

Will Recorded Covenants Hold and Remain Binding on Successors in Title to Real Property? A Pivotal Certified Question Heads to the Florida Supreme Court

Article

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Breaking news from the United States Court of Appeals for the Eleventh Circuit involving the case of *RJ's International Trading, LLC vs. Crown Castle South, LLC*. The court has certified a pivotal question to the Florida Supreme Court, which *could significantly impact the binding nature of aspects of easements, declarations, and similar agreements on successors in title*.

This case specifically examines whether a prevailing-party attorney's fee provision within an easement agreement is a real covenant that runs with the land, thereby binding non-signatories. The decision has the potential to profoundly affect how such provisions are drafted and enforced in future property transactions.

Background and Issue

The case revolves around a property and contract dispute involving an easement agreement that contains a prevailing-party attorney's fee provision. The key legal question is whether this fee provision can be considered a real covenant, such that it runs with the land and binds non-signatories.

Court's Decision

The District Court concluded that an attorney's fee provision does not touch and concern the land, meaning it cannot be considered a real covenant that binds non-signatories. RJ's International Trading, LLC (RJI) appealed this decision. The Appeals Court noted the complexity of the issue, recognizing the lack of guidance from the Florida Supreme Court on this specific matter.

Certification to Florida Supreme Court

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Given the uncertainty and the importance of resolving this issue accurately under Florida law, the Appeals Court decided to certify the question to the Florida Supreme Court. The question specifically asks whether a prevailing-party attorney's fee provision in an easement agreement is a real covenant that runs with the land under Florida law.

Stay tuned as this issue develops further.