

SUPREME COURT OF VIRGINIA



SUPREME COURT BUILDING
100 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219
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Granted Appeal Summary

Case

SOUTHWAY BUILDERS, INC. v. UNITED STATES SURETY COMPANY, ET AL.
(Record Number 210310)

From

The Circuit Court of Fairfax County; G. Carroll, Judge.

Counsel

David Hilton Wise and John J. Drudi (Wise Law Firm, PLC) for appellant.

Fred A. Mendicino, Lucas T. Daniels, and Jon R. Neri (Faughnan Mendicino, PLLC) for appellees.

Assignments of Error

1. The trial court erroneously granted summary judgment and declaratory judgment in favor of the Sureties and against Southway Builders, Inc. by ruling that Southway was time-barred from bringing a claim on the performance bond against the Sureties relating to MAAMECH's work on the project.
2. In granting the Sureties' motion for summary judgment, the trial court erroneously applied the wrong standard of review by construing all disputed facts in favor of the moving party (the Sureties) rather than in favor of the non-moving party (Southway Builders, Inc.)
3. The trial court failed to interpret or give any meaning to the key paragraph of the performance bond which stated that if that paragraph was void or prohibited by law, the minimum period of limitations available to sureties as a defense in the jurisdiction where any proceeding is instituted shall apply.
4. The trial court erroneously applied Virginia law to the terms of the performance bond that was issued and delivered in Maryland and subject to Maryland law.