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Couple loses front yard, fraud suit

NW 490

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FINCASTLE — A judge, in dismissing a fraud suit filed by a couple who lost much of their front yard to road construction, says a statement allegedly made by the defendants when they sold the property would be inadmissible.

Bill and Diane Whitlock of Finncastle alleged that Benjamin K. Sprinkel Sr., his wife, Irene, and his brother and sister-in-law, Robert W. and Barbara Sprinkel, had told them at the time of the sale that they would not be able to see or hear traffic on U.S. Route 220.

Botetourt County Circuit Judge George E. Honts III ruled that even if such a statement had been made, it would not have misrepresented property conditions at the time of the sale.

The Whitlocks lost a large part of their front yard to a U.S. 220 highway construction project after buying the house from the defendants.

Honts issued his ruling Wednesday in the lawsuit filed last June by the Whitlocks.

The Whitlocks alleged the Sprinkels did not tell them at the time of the September 1983 sale that the state owned the front-yard property and was planning to use it in widening U.S. 220.

The Whitlocks had filed a \$275,000 lawsuit after the state removed most of the 70-foot front yard last April.

The house, just north of here, now stands on the edge of a 29-foot-high cliff next to the highway.

The state Department of Highways and Transportation bought the frontage in 1977.

The Sprinkels sold the house and surrounding eight acres to the Whitlocks for \$47,200.

The Whitlocks paid \$5,200 down and were to make monthly payments of \$381.67.

The defendants' attorney, William Heartwell III, tried to foreclose on the property during the summer. In July, Honts issued an injunction blocking the foreclosure.

NW40

Virginia family returns to find front yard gone



AP photo

Whitlock family stands where lawn used to be

Associated Press
 FINCASTLE, Va. — When Bill and Diane Whitlock left for a trip to Georgia, their house had a gently sloping 70-foot yard. When they returned, it had disappeared.

In its place — just 10 feet from their front porch — was a 29-foot cliff.

"We couldn't even get into our house. We had to wait 45 minutes for the workmen to build a driveway for us," said Whitlock, whose yard fell victim to an expansion of U.S. 220 that runs by the property.

"When we bought the house in 1983 we were told we wouldn't be able to see or hear the highway," he said.

The Whitlocks have filed a \$275,000 damage suit in Botetourt County Circuit Court, alleging that the previous owners misled them into buying a house that was about to lose its front yard.

Because of the highway work, the couple's porch now sags. The living room ceiling is starting to crack, and the cliff is getting closer — parts of the yard have been breaking away and sliding down the hill.

Workers for the Virginia Department of Highways and Transportation are attempting to stop the slide, "but they can't give me any guarantees — when it rains it might continue to wash away," Whitlock said as he pointed to a 500-gallon gas tank about 20 feet from the edge.

"If that gas tank falls we've got some real problems," he said.

The Whitlocks discovered the problem in April when they returned from attending the Masters golf tournament.

They first considered going to court to force the Highway Department to cease work, but they discovered the state owned nearly all of their front yard. It was part of 2.04 acres bought by the department in 1977 for a right of way that could come as close as 5 inches to their house.

Since that sale, the house has changed hands three times.

"I'm starting to think we should have torn down the house," said Denny Weddle, the department's right-of-way manager in Salem.

The state probably would have purchased the house and destroyed it if the right of way line had touched it, Weddle said.

The owners of the house before the Whitlocks were Benjamin K. Sprinkel Sr., his wife Irene Sprinkel, brother Robert W. Sprinkel and his wife, Barbara Sprinkel.

The Whitlock's suit, filed Tuesday, alleges the Sprinkels knew the location of the boundary of the right of way when they sold the house.

Benjamin Sprinkel, a former Botetourt County magistrate, declined comment on the sale. His lawyer, William L. Heartwell III, also would not comment.

The Whitlocks paid about \$39,000 for the house itself as part of the \$47,200 purchase price, said Anthony Anderson, the Whitlocks'

attorney. "It's a lot of money to pay for a house with no front yard," Anderson said.

The Whitlocks would have known the boundary of the right of way if they had done a title search on the deed, Anderson said. "But as they understand it now, no search was performed."

Although Virginia law does not require a title search when a house is sold, a bank or other lending association usually will demand one, Anderson said.

But the Whitlocks did not borrow money for the house — they paid \$5,200 down and are scheduled to pay the Sprinkels \$381.67 a month for the property over the next 23 years.

"If there's a moral to this story, it is when you buy a house make sure a title search is done," Anderson said.

The Whitlocks want to move the house back from the cliff, but Anderson said they can't pay the \$15,000 bill. And Whitlock said his family can't afford to move.

The Whitlocks are keeping a close watch on their children, 5-year-old Sarah and 2-year-old Heather.

"Once Heather's ball came off the porch, and she chased it down right to the edge," Whitlock said. "She scared us to death."

"You feel like you can't take your eyes off the kids. My wife's been a nervous wreck — it's been a nightmare for us."