

WINDING RIDGE HOMEOWNERS ASSOCIATION, INC., a North Carolina not-for-profit Corporation, and THEODORE J. HUMPHREY, III, a natural person v. ZALMAN JOFFE and wife, DEVORA JOFFE; SUNTRUST MORTGAGE, INC.; JACKIE MILLER, Trustee; ALSTON MASON; TYLER MURTAUGH; TRIP SHORT; BROOKS WELLER; and TAYLOR HARRINGTON

No. 404A07

FILED: 7 MARCH 2008

Deeds—restrictive covenant—use of property—single family dwelling—lease to college students

A decision of the Court of Appeals that a restrictive covenant restricting the “use” of property to a single family residential dwelling prohibited a lease of the property to four unrelated college students is reversed for the reason stated in the dissenting opinion that the restrictive covenant is only a limitation on the type of structure that may be placed on the property and not a restriction on the type of occupancy permitted within the dwelling.

Supreme Court

Appeal pursuant to N.C.G.S. § 7A-80(2) from the decision of a divided panel of the Court of Appeals, 184 N.C. App. ___, 646 S.E.2d 801 (2007), affirming an order entered on 18 August 2006 by Judge Carl R. Fox in Superior Court, Orange County. Heard in the Supreme Court 14 February 2008.

Slip Opinion

Brown & Bunch, PLLC, by Charles Gordon Brown, for plaintiff-appellees.

The Brough Law Firm, by G. Nicholas Herman, for defendant-appellants Zalman and Devora Joffe.

PER CURIAM.

For the reasons stated in the dissenting opinion, the decision of the Court of Appeals is reversed and this matter is remanded to the Court of Appeals for further remand to the trial court for further proceedings not inconsistent with this opinion.

REVERSED AND REMANDED.