## IN THE SUPREME COURT OF THE STATE OF DELAWARE

H.P. LAYTON PARTNERSHIP, INC.,	) ) No. 504, 2012
Plaintiff Below, Appellant,	) Court Below: Superior Court ) of the State of Delaware in and for ) Sussex County
V.	) ) Case No. S12C-05-011
MANUFACTURERS AND	, )
TRADERS TRUST COMPANY,	)
A NEW YORK CORP. AND	)
OTHER UNKNOWN TENANTS	)
OR OTHER PERSONS IN	)
POSSESSION OR USE OF ALL OR	)
OF ANY PART OF THE	)
IMPROVEMENT AND/OR REAL	)
PROPERTY LOCATED AT 7	)
WEST MARKET STREET,	)
GEORGETOWN, DELAWARE	)
AND KNOWN AS SUSSEX	)
COUNTY T.M.P.	)
NO.: 1–35–19.08–146.00	)
	)
Defendant Below,	)
Appellee.	)

Submitted: February 5, 2013 Decided: February 14, 2013

Before STEELE, Chief Justice, HOLLAND and BERGER, Justices.

## ORDER

This 14<sup>th</sup> day of February, 2013, it appears to the Court that:

- 1. Appellant H.P. Layton Partnership appeals from the Superior Court judge's grant of summary judgment in favor of Appellee Manufacturers and Traders Trust Company (M&T).
- 2. We review a Superior Court judge's grant of summary judgment *de novo*, viewing all facts in the light most favorable to the nonmoving party, to determine whether a genuine issue of material fact is in dispute.<sup>1</sup> We review *de novo* the Superior Court judge's interpretation of contracts.<sup>2</sup> "We have 'long upheld awards of summary judgment in contract disputes where the language at issue is clear and unambiguous."<sup>3</sup>
- 3. When Layton purchased the property at issue, it purchased subject to an existing lease with the Wilmington Trust Company (WTC). A plain reading of Paragraph 9(a) of the lease only prohibits assignments by the tenant without Landlord approval to entities "not either controlled or affiliated with the Tenant." Therefore, Wilmington Trust Company could, under the plain terms of the lease, assign the lease to an affiliate without Layton's approval. We agree with the Superior Court judge that Layton's attempted parsing of the contract language to

<sup>&</sup>lt;sup>1</sup> E. Sav. Bank, FSB v. CACH, LLC, 55 A.3d 344, 347 (Del. 2012) (citing Williams v. Geier, 671 A.2d 1368, 1375–76 (Del. 1996)).

<sup>&</sup>lt;sup>2</sup> Riverbend Cmty., LLC v. Green Stone Eng'g, LLC, 55 A.3d 330, 334 (Del. 2012) (citing GMG Capital Invs., LLC v. Athenian Venture Partners I, L.P., 36 A.3d 776, 779 (Del. 2012)).

<sup>&</sup>lt;sup>3</sup> *Id.* (quoting *GMG Capital*, 55 A.3d at 783).

<sup>&</sup>lt;sup>4</sup> App. to Opening Br. A5.

restrict the approval provision for nonaffiliated transfers only to sublets is an unreasonable interpretation.<sup>5</sup>

4. Because the language is plain and there exists no genuine dispute that M&T and WTC are affiliates,<sup>6</sup> the lease did not require WTC to obtain Layton's consent before assigning the lease to M&T.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele Chief Justice

<sup>&</sup>lt;sup>5</sup> See Opening Br. 7–9; H.P. Layton P'ship, Inc. v. Mfrs. & Traders Trust Co., C.A. No. S12C–05–011, at 8 (Del. Super. Aug. 17, 2012) (TRANSCRIPT) ("I think Paragraph 9 of the lease is clear. I think the plaintiff is trying to essentially rewrite it or reinterpret it.").

<sup>&</sup>lt;sup>6</sup> See H.P. Layton P'Ship, C.A. No. S12C-05-011, at 4, 6.