

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday the 24th day of October, 2008.

8522 Lee Highway at Merrifield, L.L.C., Appellant,
against Record No. 072107
Circuit Court No. CL-2007-0000053
Sonic-Manhattan Fairfax, Inc.,
t/a BMW of Fairfax, Appellee.

Upon an appeal from a
judgment rendered by the Circuit
Court of Fairfax County.

Upon consideration of the record, briefs, and argument of counsel, the Court is of the opinion that there is reversible error in the judgment of the circuit court.

Relying on a survey signed by a licensed land surveyor and a discussion with the surveyor, 8522 Lee Highway at Merrifield, L.L.C. ("Lee") filed a complaint against Sonic-Manhattan Fairfax, Inc., ("Sonic"). Lee alleged in the complaint that Sonic was trespassing on Lee's property. In response, Sonic filed an answer denying that Lee owned the property at issue. Thereafter, Lee received notice that the survey was inaccurate. The corrected survey, which contained a different front boundary line than the previous survey, confirmed that Lee did not own the property at issue.

Lee informed Sonic and the circuit court of its intention to move for the dismissal of the case. Preceding Lee's motion to dismiss, Sonic filed a motion for sanctions alleging that the complaint was filed without a valid basis in law or fact in violation of Code § 8.01-271.1.

The circuit court dismissed the case with prejudice and granted Sonic's motion for sanctions. The circuit court reasoned that based on the physical appearance of the area and a recorded 1966 deed and plat of the property, both of which indicated Lee's original survey was erroneous, Lee had not conducted a reasonable inquiry before filing its complaint. Lee was ordered to pay Sonic \$7,550.00 in attorney's fees and \$2,846.31 in costs and expenses. Lee appeals.

In reviewing the imposition of sanctions under Code § 8.01-271.1, this Court applies an abuse of discretion standard of review. Flippo v. CSC Assoc. III, L.L.C., 262 Va. 48, 65, 547 S.E.2d 216, 227 (2001). This Court uses "an objective standard of reasonableness in determining whether a litigant and his attorney, after reasonable inquiry, could have formed a reasonable belief that the pleading was well grounded in fact, warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and not interposed for an improper purpose." Id. at 65-66, 547 S.E.2d at 227.

We hold that the circuit court abused its discretion in awarding sanctions pursuant to Code § 8.01-271.1. Obtaining a survey from a licensed surveyor concerning a property boundary is a reasonable inquiry regarding that fact. It was objectively reasonable for Lee to rely on the survey and the discussion with

the licensed land surveyor in forming the belief that Lee owned the property at issue. Therefore, Lee did not violate Code § 8.01-271.1.

Accordingly, for the above reasons, we reverse the judgment of the circuit court imposing monetary sanctions against Lee and enter final judgment.

This order shall be certified to the said circuit court.

A Copy,

Teste:

*original order signed by the
Clerk of the Supreme Court of
Virginia at the direction of the
Court*