

SUPREME COURT OF LOUISIANA

No. 04-C-0473

WILLIS-KNIGHTON MEDICAL CENTER

VERSUS

CADDO-SHREVEPORT SALES AND USE TAX COMMISSION

*ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,
SECOND CIRCUIT, PARISH OF CADDO*

ON REHEARING

PER CURIAM

We granted rehearing in this matter for the sole purpose of considering the retroactivity of our decision insofar as it discusses the proper interpretation of LSA-C.C. art. 466, and its definition of a component part of an immovable.

In **Lovell v. Lovell**, 378 So.2d 418 (La. 1979), this court set forth the following criteria for determining whether a judicial decision should be accorded prospective effect only:

(1) the decision to be applied nonretroactively must establish a new principle of law, either by overruling clear past precedent on which litigants have relied, or by deciding an issue of first impression whose resolution was not clearly foreshadowed; (2) the merits and demerits must be weighed in each case by looking to the prior history of the rule in question, its purpose and effect, and whether retrospective application will further or retard its operation; and (3) the inequity imposed by retroactive application must be weighed.

Lovell, 378 So.2d at 421-22.

Weighing these factors, we conclude that our opinion in this matter should be given prospective effect only. While that opinion does not change the substantive law but rather simply applies the law as it has existed since the 1978 Civil Code Revisions, we note that Louisiana appellate courts have employed a disjunctive

reading of LSA-C.C. art. 466, and in doing so, have drawn on the societal expectations test as a measure for determining what items might be considered component parts under the first paragraph of Article 466. Because the courts, and no doubt individuals, have relied on this approach, and there was no clear indication (other than the decision of the federal court in **Prytania Park Hotel, Ltd. v. General Star Indemnity Co.**, 179 F.3d 169 (5th Cir. 1999)), that foreshadowed its demise, we find that this case is one which is appropriate for prospective application. We are bolstered in our conclusion in this regard by the fact that the area of law with which we are concerned - that of property law - is one in which predictability and stability are especially important. Retroactive application of our decision would undermine that important policy objective and potentially invite litigation, resulting in needless expense and inconvenience to numerous parties whose consummated transactions might be open to scrutiny under our opinion.

Therefore, in this matter before us, we adhere to our original opinion eschewing a disjunctive reading of the two paragraphs of Article 466 and use of the societal expectations test as a method of determining what is a component part within the meaning of the first paragraph of that article. However, we declare that that portion of the decision shall not be retroactive, but shall be given prospective effect only.