

Supreme Court

No. 2018-219-Appeal.
(PC 16-3438)

Reney A. Mondoux et al. :

 v. :

Peter A. Vanghel. :

ORDER

This case came before the Supreme Court for oral argument on September 26, 2019, pursuant to an order directing the parties to appear and show cause why the issues raised should not summarily be decided. This matter arose from the 1997 purchase of real property by the plaintiffs, Reney Mondoux and Joseph Mondoux, Jr., from the defendant, Peter Vanghel, who had constructed the home, and an alleged latent defect that was not discovered by the plaintiffs until 2013. The plaintiffs filed a complaint in Superior Court in July 2016 and subsequently amended their complaint. The plaintiffs brought several tort claims, as well as counts for breach of contract, express warranty, and implied warranty of habitability. The defendant filed a motion for summary judgment, arguing in part that the applicable statutes of limitations barred the plaintiffs’ claims. In May 2018, a justice of the Superior Court granted summary judgment in favor of the defendant on all counts. The plaintiffs appealed, arguing that it was error for the hearing justice to award summary judgment. However, on appeal, plaintiffs press only their claims for breach of contract and breach of warranties.

We affirm the judgment with respect to plaintiffs’ breach of contract and express warranty arguments. We do so because we are satisfied that, pursuant to the doctrine of “merger by deed,” any claims arising from any verbal or written contract between the parties for the purchase of the

home are extinguished by the acceptance of a warranty deed. *Lizotte v. Mitchell*, 771 A.2d 884, 887 (R.I. 2001) (“The doctrine of merger by deed provides that once a warranty deed is accepted it becomes the final statement of the agreement between the parties and nullifies all provisions of the purchase-and-sale agreement.”) (quoting *Haronian v. Quattrocchi*, 653 A.2d 729, 730 (R.I. 1995)).

With respect to the remaining issue of the claim for breach of implied warranty of habitability, and in particular whether this Court’s holding in *Nichols v. R.R. Beaufort & Associates, Inc.*, 727 A.2d 174 (R.I. 1999), should apply to the facts of this case, it is our opinion that cause has been shown. Accordingly, this case is assigned to the regular calendar for full briefing and argument on this issue alone. The parties are directed to address whether the ten-year limitation on claims for breach of implied warranties, as set forth for subsequent purchasers in *Nichols*, should act as a bar to the plaintiffs’ claim in this case. We invite amicus curiae briefs to be submitted by interested parties. It is so ordered.

Entered as an Order of this Court this 17th day of October, 2019.

By Order,

/s/
Clerk

SUPREME COURT – CLERK’S OFFICE

ORDER COVER SHEET

Title of Case	Reney A. Mondoux et al. v. Peter A. Vanghel.
Case Number	No. 2018-219-Appeal. (PC 16-3438)
Date Order Filed	October 17, 2019
Justices	Suttell, C.J., Goldberg, Flaherty, Robinson, and Indeglia, JJ.
Source of Appeal	Providence County Superior Court
Judicial Officer From Lower Court	Associate Justice Bennett R. Gallo
Attorney(s) on Appeal	For Plaintiffs: Karen Auclair Oliviera, Esq.
	For Defendant: Steven T. Hayes, Esq. Donna M. Lamontagne, Esq.