

LEGAL UPDATES

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Texas Supreme Court Clarifies That Specific Performance Can Include Monetary Relief

On June 13, 2025, the Supreme Court of Texas delivered a 17-page opinion in *White Knight Development, LLC v. Simmons* clarifying that monetary damages may be awarded alongside specific performance in real estate contract disputes. The ruling allows equitable reimbursement for delay-related carrying costs and refines the traditional view that specific performance precludes monetary relief. For more than a century, Texas courts had recognized specific performance as an equitable remedy, particularly in real property matters, when the party seeking specific performance proves readiness, willingness, and ability to perform their contractual obligations and such party tendered that performance. The *White Knight* court's reasoning, therefore, is an important and noteworthy development for those engaged in real estate transactions in Texas.

Background

In *White Knight*, a developer entered into an agreement to purchase land from a seller. The contract contained a buyback provision allowing the developer to require the seller to repurchase the property if certain deed restrictions were extended. When those restrictions were extended, the seller refused to comply with the buyback provision. The developer sued the seller, and the trial court awarded both specific performance and damages. On appeal, the court modified the judgment to remove the monetary award, holding that the developer was not permitted to receive both specific performance of the contract and monetary damages in keeping with historical jurisprudence of the doctrine of specific performance. The developer sought further review by the Texas Supreme Court.

Supreme Court's holding and analysis

The Texas Supreme Court considered whether a court may award specific performance together with monetary compensation for expenses incurred due to a breach of contract. The court held that, although specific performance generally precludes additional monetary damages, there are limited circumstances where both remedies may be appropriate. Specifically, monetary damages “may be appropriate when specific performance alone does not restore the nonbreaching party to the position it would have occupied if the contract had been performed at the time it was to be performed.” Such awards must be directly traceable to the breach, foreseeable at the time of the contract, and commercially reasonable. The court determined that the trial court’s monetary award was intended to compensate for delay and to adjust the equities, rather than to duplicate damages that would be inconsistent with the equitable remedy of specific performance.

Practical impact: recoverable carrying costs and incidental damages

For developers, the practical considerations of this decision cannot be underestimated. In addition to receiving the real property and preserving its benefit of the bargain, developers in Texas may now recover carrying costs incurred due to delays in obtaining fee title caused by a seller’s default. When a buyer is awarded specific performance in a real estate transaction—meaning the court compels the seller to go through with the sale—the buyer may still incur carrying costs during the delay caused by the seller’s refusal to perform.

Carrying costs refer to the expenses a buyer incurs while waiting to take possession of the property. These costs arise because the buyer is often ready, willing, and able to close but is prevented from doing so due to the seller’s breach. Courts may award these costs as incidental damages or equitable adjustments in conjunction with specific performance. These carrying costs might include: (a) property taxes accruing during the delay period, (b) costs of insuring real property improvements during the delay, (c) additional moving or storage costs due to rescheduling, (d) lost investment opportunities or income from the intended use of the property (e.g., rental income or business operations), (e) changes in market value or condition of the real property and its improvements, and (f) additional legal fees incurred due to the litigation resulting in a finding that buyer is entitled to the remedy of specific performance.

These costs can be significant and may be recoverable under Texas law.

What this means to you

Specific performance remains a vital remedy in Texas real property law. The *White Knight* decision refines its application by allowing limited equitable monetary relief. Texas courts assess whether the contract is sufficiently definite and whether the plaintiff has fulfilled or is ready to fulfill their obligations. Specific performance may be denied if (1) the contract is too vague, (2) the plaintiff has unclean hands, or (3) enforcement would be inequitable or impossible. Absent these considerations,

plaintiffs seeking specific performance of real estate contracts may also seek incidental damages identified as carrying costs if they are: (a) resulting from and are directly traceable to the breach, (b) foreseeable at the time of contracting, and (c) commercially reasonable.

Legal practitioners should ensure contract clarity and client readiness to preserve this remedy and to assert the right to recover carrying costs in addition to the real property at issue. Buyers and sellers should be informed that a breach of a purchase and sale agreement under Texas law may now subject the defaulting party to an award of incidental damages in addition to equitable remedies.

Contact us

If you have a question as to how *White Knight* impacts your real estate transaction, contact Steve Katkov, Reagan Hovey, or your Husch Blackwell attorney.