

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Quintain Development, LLC v. Columbia Natural Resources, Inc., 210 W. Va. 128

556 S.E.2d 95 (2001) · No. No. 29163 · Decided December 5, 2001

SUMMARY

The Supreme Court of Appeals of West Virginia addressed whether a natural gas pipeline easement had to be relocated to permit surface coal mining and who was responsible for the relocation costs. The court held that the Vinson and Baach easements required relocation where the pipeline interfered with coal removal, but that Quintain, which benefited from the relocation, had to bear the cost. The court further held that the pipeline and the refusal to pay relocation costs did not constitute a private nuisance because the easement was not exceeded, and it dissolved the injunction as to the McCormick tract.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Davis, Justice; Maynard, Justice
JURISDICTION	West Virginia
DECIDED	December 5, 2001
DOCKET	No. 29163
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Quintain brought an injunction and declaratory-judgment action seeking to compel Columbia Natural Resources to relocate a natural-gas pipeline to facilitate surface coal mining and to pay the relocation costs. The circuit court granted summary judgment to Quintain, ordered relocation at CNR's expense, and found the pipeline constituted a private nuisance. CNR appealed.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. Summary judgment is proper only when there is no genuine issue of material fact and further factual inquiry is unnecessary to apply the law.
PRECEDENTIAL VALUE	Published West Virginia Supreme Court of Appeals opinion; precedential.
PARTIES	Columbia Natural Resources, Inc. v. Quintain Development, LLC

TOPICS

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QUESTIONS PRESENTED

1. Whether the Vinson and Baach easements required CNR to relocate its pipeline when the pipeline interfered with coal removal using surface or mountain-top-removal mining methods.
2. Whether the easement language requiring payment of damages from maintaining, operating, and removing the pipeline required CNR to pay the cost of relocating the pipeline.
3. Whether CNR's pipeline or refusal to relocate it constituted a private nuisance despite the express easements.
4. Whether CNR was entitled to damages and attorney fees after dissolution of the injunction as to the McCormick tract.

HOLDINGS

1. The Vinson and Baach easements required CNR to relocate its pipeline to the extent it interfered with the removal of coal, even though the contemplated mining method was surface or mountain-top-removal mining that was not known locally when the easements were executed.
2. Quintain, rather than CNR, was required to bear the cost of relocating the pipeline on the Vinson and Baach tracts.
3. Actions or inactions by an easement owner that otherwise meet the legal definition of a nuisance do not constitute a nuisance as to the servient estate unless they exceed the scope of the easement.
4. CNR's refusal to relocate the pipeline on the McCormick tract did not constitute a nuisance because the condemnation easement contained no provision requiring relocation to facilitate coal mining.
5. Because the injunction was dissolved as to the McCormick tract, CNR was entitled to recover damages incurred in connection with that portion of the injunction and could recover qualifying attorney fees upon proof of the applicable requirements.

KEY QUOTATIONS

“Based upon the foregoing, we hold that the actions or inactions of the owner of an easement, which otherwise meet the legal definition of a nuisance, do not create a nuisance as to the estate servient to the easement unless those actions or inactions exceed the scope of the easement.” (210 W. Va. 137)

“Clearly the parties contemplated that if the pipeline interfered with the removal of coal, it would be relocated. This fact does not change simply because the method of mining the coal may have changed.” (210 W. Va. 133)

FACTUAL BACKGROUND

CNR's predecessor obtained 1914 easements over the Vinson, Baach, and McCormick tracts for a sixteen-inch natural-gas pipeline. The Vinson and Baach easements reserved the landowners' ability to mine and remove coal and provided that the gas company would pay damages arising from maintaining, operating, and removing the pipeline; the condemnation easement over McCormick contained no comparable reservation or relocation provision. Quintain later acquired surface-mining rights over the Vinson and Baach tracts, knew of the pipeline, and sought its relocation to permit surface or mountain-top-removal mining. CNR agreed to relocate the pipeline if Quintain paid the estimated \$377,627 cost.

PROCEDURAL HISTORY

The Circuit Court of Mingo County granted a preliminary injunction requiring CNR to relocate the pipeline at its own expense. After the parties filed cross-motions for summary judgment, the circuit court entered final judgment for Quintain, ruling that the Vinson and Baach easements required relocation at CNR's expense and that the pipeline constituted a nuisance across all three tracts. The Supreme Court of Appeals affirmed the relocation obligation as to the Vinson and Baach tracts, reversed the cost allocation and nuisance rulings, dissolved the injunction as to the McCormick tract, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The circuit court must determine the costs incurred by CNR in relocating the pipeline from the Vinson and Baach tracts; consider CNR's damages and attorney-fee claim arising from dissolution of the McCormick injunction; and enter summary judgment in CNR's favor as to the McCormick tract.

CASES CITED

- Painter v. Peavy, 192 W. Va. 189, 451 S.E.2d 755 (1994)
- Aetna Cas. & Sur. Co. v. Federal Ins. Co. of New York, 148 W. Va. 160, 133 S.E.2d 770 (1963)
- Oresta v. Romano Bros., 137 W. Va. 633, 73 S.E.2d 622 (1952)
- Kell v. Appalachian Power Co., 170 W. Va. 14, 289 S.E.2d 450 (1982)
- Phillips v. Fox, 193 W. Va. 657, 458 S.E.2d 327 (1995)
- Brown v. Crozer Coal & Land Co., 144 W. Va. 296, 107 S.E.2d 777 (1959)
- West Virginia-Pittsburgh Coal Co. v. Strong, 129 W. Va. 832, 42 S.E.2d 46 (1947)
- Minard Run Oil Co. v. Pennzoil Co., 419 Pa. 334, 214 A.2d 234 (1965)
- Hendricks v. Stalnaker, 181 W. Va. 31, 380 S.E.2d 198 (1989)
- Kelly v. Rainelle Coal Co., 135 W. Va. 594, 64 S.E.2d 606 (1951)
- Kimball v. Walden, 171 W. Va. 579, 301 S.E.2d 210 (1983)
- Bormann v. Board of Supervisors, 584 N.W.2d 309 (Iowa 1998)
- Churchill v. Burlington Water Co., 94 Iowa 89, 62 N.W. 646 (1895)
- Westchester Associates, Inc. v. Boston Edison Co., 47 Mass. App. Ct. 133, 712 N.E.2d 1145 (1999)

- City of Columbia v. Lentz, 39 Tenn. App. 350, 282 S.W.2d 787 (1955)
- Indiana Michigan Power Co. v. Runge, 717 N.E.2d 216 (Ind. Ct. App. 1999)
- M & D, Inc. v. McConkey, 226 Mich. App. 801, 573 N.W.2d 281 (1997)
- M & D, Inc. v. W.B. McConkey, 231 Mich. App. 22, 585 N.W.2d 33 (1998)
- Hoffman v. Smith, 172 W. Va. 698, 310 S.E.2d 216 (1983)
- Lowe v. Guyan Eagle Coals, Inc., 166 W. Va. 265, 273 S.E.2d 91 (1980)
- State ex rel. Meadow River Lumber Co. v. Marguerite Coal Co., 104 W. Va. 324, 140 S.E. 49 (1927)
- State ex rel. Shatzer v. Freeport Coal Co., 144 W. Va. 178, 107 S.E.2d 503 (1959)
- State ex rel. Bush v. Carden, 111 W. Va. 631, 163 S.E. 54 (1932)
- State ex rel. Stout v. Rogers, 132 W. Va. 548, 52 S.E.2d 678 (1949)
- State ex rel. Citizens' National Bank v. Graham, 68 W. Va. 1, 69 S.E. 301 (1910)
- State ex rel. Griffith v. Purcell, 31 W. Va. 44, 5 S.E. 301 (1888)

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