

MASSACHUSETTS SUPREME JUDICIAL COURT

Sullivan v. Chief Justice for Administration & Management of the Trial Court

448 Mass. 15 (2006) · Decided December 15, 2006

SUMMARY

The Massachusetts Supreme Judicial Court considers claims arising from alleged asbestos exposure and unsafe maintenance practices at the Edward J. Sullivan Courthouse. The opinion addresses standing, declaratory and equitable relief, estoppel, sovereign immunity, and the scope of the court’s general superintendence jurisdiction. The court holds, in the portion provided, that the plaintiffs have standing and that certain claims concerning the CJAM’s property-management duties may proceed despite sovereign-immunity limitations.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
WRITING FOR THE COURT	Spina, J.
JURISDICTION	Massachusetts
DECIDED	December 15, 2006
DISPOSITION	remanded
PROCEDURAL POSTURE	The plaintiffs brought an action in the Supreme Judicial Court for Suffolk County seeking declaratory and equitable relief and, alternatively, relief under the court's general-superintendence authority. The defendant moved to dismiss under Mass. R. Civ. P. 12(b)(6). A single justice reserved and reported questions concerning standing, failure to state a claim, sovereign immunity, the exclusivity of general-superintendence review, concurrent Superior Court jurisdiction, and the validity of statutory limits on general superintendence.
STANDARD OF REVIEW	On a motion to dismiss under Mass. R. Civ. P. 12(b)(1) or 12(b)(6), the court accepts the complaint's factual allegations and reasonably drawn favorable inferences as true. Dismissal is proper only when it appears with certainty that the nonmoving party is not entitled to relief under any combination of facts provable in support of the claims.
PRECEDENTIAL VALUE	published precedential opinion

PARTIES

Sullivan and other plaintiffs v. Chief Justice for Administration & Management of the Trial Court

TOPICS

motions to dismiss

standing

subject matter jurisdiction

declaratory judgment

civil procedure

PRACTICE AREAS

civil procedure

administrative law

environmental law

sovereign immunity

remedies

statutory interpretation

QUESTIONS PRESENTED

1. Whether the plaintiffs had standing to challenge the defendant's alleged failure to maintain the Sullivan Courthouse safely.
2. Whether the complaint stated claims for declaratory relief, estoppel, public nuisance, assault and battery, and violations of environmental laws.
3. Whether sovereign immunity barred the plaintiffs' viable claims.
4. Whether general superintendence under G. L. c. 211, § 3, was the exclusive form of review of the defendant's actions or inaction.
5. Whether the Superior Court had concurrent jurisdiction over the plaintiffs' estoppel claim.
6. Whether the statutory provisos limiting general superintendence were valid limitations on the Supreme Judicial Court's inherent judicial-administration authority.

HOLDINGS

1. The plaintiffs had standing because they alleged a direct and reasonably imminent risk of harm from the defendant's breach of statutory and common-law duties to maintain the courthouse safely.
2. The plaintiffs stated a claim for declaratory relief insofar as it was based on the CJAM's property-management duties, because sovereign immunity had been waived for negligent maintenance of public property; declaratory relief remained unavailable for responsibilities involving inherent judicial administration.
3. The complaint stated a claim for estoppel based on the CJAM's specific assurances concerning transparency, notice, and asbestos-related work, and the claim was not barred by sovereign immunity.
4. The public-nuisance count failed because the plaintiffs did not allege a special injury different in kind from the injury suffered by the general public.
5. The assault-and-battery claim was waived because the plaintiffs failed to address it in their appellate brief.
6. The environmental-law count failed because the cited Massachusetts regulations, OSHA provisions, and Clean Air Act provisions did not provide the plaintiffs with a private cause of action on the allegations

presented.

7. The plaintiffs were not entitled to relief under G. L. c. 211, § 3, because they had not alleged extraordinary circumstances causing a severe, adverse impact on the administration of justice, and other remedies remained available.
8. General superintendence by the Supreme Judicial Court was not the exclusive form of review of the CJAM's actions, and the Superior Court had concurrent jurisdiction over the plaintiffs' estoppel claim.
9. The provisos added to G. L. c. 211, § 3, were not limitations on the Supreme Judicial Court's inherent power to superintend the court system.

KEY QUOTATIONS

“In reviewing a motion to dismiss under rule 12 (b) (1) or (6), “we accept the factual allegations in the plaintiffs’ complaint, as well as any favorable inferences reasonably drawn from them, as true.”” (448 Mass. at 21)

“A landowner must act as a reasonable man in maintaining . . . property in a reasonably safe condition in view of all the circumstances, including the likelihood of injury to others, the seriousness of the injury, and the burden of avoiding the risk.” (448 Mass. at 23)

“It is not enough that he has suffered the same kind of harm or interference but to a greater extent or degree.” (448 Mass. at 35)

“Relief pursuant to G. L. c. 211, § 3, is extraordinary and will be exercised only in the most exceptional circumstances.” (448 Mass. at 40)

“Notwithstanding the powers of general superintendence conferred on this court, nothing in G. L. c. 211, § 3, suggests that the CJAM is immune from the filing of a private cause of action against him for the alleged unsatisfactory performance of his duties.” (448 Mass. at 42)

FACTUAL BACKGROUND

The Sullivan Courthouse housed several courts, a district attorney's office, and a jail, and contained approximately 90,000 pounds of asbestos installed as fireproofing insulation. The plaintiffs alleged that maintenance and renovation work had repeatedly occurred without adequate asbestos safety measures, exposing occupants and workers to friable asbestos. They further alleged that the defendant promised transparency, advance notice, and safe procedures for renovation and asbestos abatement, but work proceeded without the promised notice and information. The plaintiffs sought relief after learning that elevator work could disturb asbestos-containing material.

PROCEDURAL HISTORY

The plaintiffs alleged that asbestos and unsafe building conditions at the Sullivan Courthouse resulted from the defendant's failure to manage and maintain the facility properly. The Superior Court denied the plaintiffs' request for a temporary restraining order concerning elevator work. After the action was filed, the defendant moved to dismiss, and the single justice reported the dispositive questions to the full Supreme Judicial Court. The Supreme

Judicial Court held that some claims survived, others failed, and remanded the case to the Supreme Judicial Court for Suffolk County for further proceedings.

DISPOSITION

remanded

REMAND INSTRUCTIONS

The case was remanded to the Supreme Judicial Court for Suffolk County for further proceedings consistent with the opinion. Counts 3, 4, 5, and 6 were to be dismissed; counts 1 and 2 were not to be dismissed. The Superior Court had concurrent jurisdiction over the surviving estoppel claim.

CASES CITED

- Ginther v. Commissioner of Ins., 427 Mass. 319, 322-323 (1998)
- Nader v. Citron, 372 Mass. 96, 98, 104 (1977)
- Spinner v. Nutt, 417 Mass. 549, 550 (1994)
- Flattery v. Gregory, 397 Mass. 143, 145-146 (1986)
- Planning Bd. of Marshfield v. Zoning Bd. of Appeals of Pembroke, 427 Mass. 699, 703 (1998)
- Slama v. Attorney Gen., 384 Mass. 620, 624 (1981)
- Northbridge v. Natick, 394 Mass. 70, 75 (1985)
- Burlington v. Bedford, 417 Mass. 161, 164-165 (1994)
- Group Ins. Comm'n v. Labor Relations Comm'n, 381 Mass. 199, 204 (1980)
- Boston Edison Co. v. Boston Redevelopment Auth., 374 Mass. 37, 44 (1977)
- Mounsey v. Ellard, 363 Mass. 693, 707-708 (1973)
- Boston v. Keene Corp., 406 Mass. 301, 312 (1989)
- Champigny v. Commonwealth, 422 Mass. 249, 251 (1996)
- Murphy v. Bohn, 377 Mass. 544, 548 (1979)
- O'Coin's, Inc. v. Treasurer of the County of Worcester, 362 Mass. 507, 509-510 (1972)
- County Comm'rs of Plymouth v. State Supt. of Bldgs., 383 Mass. 262, 263 (1981)
- Marco v. Green, 415 Mass. 732, 736 (1993)
- Bongaards v. Millen, 440 Mass. 10, 15 (2003)
- Boylston Dev. Group, Inc. v. 22 Boylston St. Corp., 412 Mass. 531, 542 & n.17 (1992)
- Loranger Constr. Corp. v. E.F. Hauserman Co., 6 Mass. App. Ct. 152, 154-155, S.C., 376 Mass. 757 (1978)
- Libman v. Zuckerman, 33 Mass. App. Ct. 341, 345-347 (1992)
- Turnpike Motors, Inc. v. Newbury Group, Inc., 413 Mass. 119, 125 (1992)
- Cleaveland v. Malden Sav. Bank, 291 Mass. 295, 297 (1935)
- Clickner v. Lowell, 422 Mass. 539, 544 (1996)
- Phipps Prods. Corp. v. Massachusetts Bay Transp. Auth., 387 Mass. 687, 693 (1982)

- *LaBarge v. Chief Admin. Justice of the Trial Court*, 402 Mass. 462, 468-469 (1988)
- *Doris v. Police Comm'r of Boston*, 374 Mass. 443, 449 (1978)
- *New City Hotel Co. v. Alcoholic Beverages Control Comm'n*, 347 Mass. 539, 542 (1964)
- *McAndrew v. School Comm. of Cambridge*, 20 Mass. App. Ct. 356, 361 (1985)
- *O'Blenes v. Zoning Bd. of Appeals of Lynn*, 397 Mass. 555, 558 (1986)
- *Irwin v. Commissioner of the Dep't of Youth Servs.*, 388 Mass. 810, 812 (1983)
- *Morash & Sons v. Commonwealth*, 363 Mass. 612, 614-616 (1973)
- *Lawrence v. Cambridge*, 422 Mass. 406, 410 (1996)
- *Campbell v. Boston Hous. Auth.*, 443 Mass. 574, 585-586 (2005)
- *Connerty v. Metropolitan Dist. Comm'n*, 398 Mass. 140, 148 (1986)
- *Mayor of Cambridge v. Dean*, 300 Mass. 174, 175 (1938)
- *Everts v. Wine Cellar, Inc.*, 308 Mass. 599 (1941)
- *Wesson v. Washburn Iron Co.*, 13 Allen 95, 103 (1866)
- *Planned Parenthood League of Mass., Inc. v. Bell*, 424 Mass. 573, 578-579, cert. denied, 522 U.S. 819 (1997)
- *Dartmouth v. Silva*, 325 Mass. 401, 404 (1950)
- *Lewis v. General Elec. Co.*, 37 F. Supp. 2d 55, 61 (D. Mass. 1999)
- *Travenol Labs., Inc. v. Zotal, Ltd.*, 394 Mass. 95, 97 (1985)
- *Sierra Club v. Larson*, 2 F.3d 462, 464 (1st Cir. 1993)
- *Weiler v. Chatham Forest Prods., Inc.*, 392 F.3d 532, 536 (2d Cir. 2004)
- *Cabana v. Forcier*, 148 F. Supp. 2d 110, 115 (D. Mass. 2001)
- *County of Barnstable v. Commonwealth*, 422 Mass. 33, 46 n.14 (1996)
- *Dunbrack v. Commonwealth*, 398 Mass. 502, 504 (1986)
- *Sabree v. Commonwealth*, 432 Mass. 1003, 1003 (2000)
- *County of Barnstable v. Commonwealth*, 410 Mass. 326, 333 (1991)
- *Clerk of the Superior Court for the County of Middlesex v. Treasurer & Receiver Gen.*, 386 Mass. 517, 522 (1982)
- *Board of Educ. v. Assessor of Worcester*, 368 Mass. 511, 513 (1975)
- *Industrial Fin. Corp. v. State Tax Comm'n*, 367 Mass. 360, 364 (1975)
- *Brach v. Chief Justice of the Dist. Court Dep't*, 386 Mass. 528, 535 (1982)
- *Sheriff of Middlesex County v. Commissioner of Correction*, 383 Mass. 631, 636 (1981)

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