

SUPREME COURT OF IOWA

Kingsway Cathedral v. Iowa Department of Transportation and City of Des Moines

No. 14 / 03-2066 (Iowa Mar. 10, 2006) · No. No. 14 / 03-2066 · Decided March 10, 2006

SUMMARY

The Supreme Court of Iowa held that temporary construction vibrations causing damage to a church building did not constitute a constitutional taking because they did not create a permanent physical invasion or servitude. The court reversed the district court's denial of the defendants' motions to dismiss and remanded for dismissal of the inverse-condemnation petition, leaving any potential recovery to tort remedies.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Per curiam
JURISDICTION	Iowa
DECIDED	March 10, 2006
DOCKET	No. 14 / 03-2066
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Interlocutory appeal from the Iowa District Court for Polk County's ruling denying defendants' motions to dismiss a recasted petition for inverse condemnation.
STANDARD OF REVIEW	The court reviewed the ruling on the motions to dismiss for correction of errors at law. A motion to dismiss should be granted only when there is no conceivable state of facts under which the plaintiff might show a right of recovery; well-pleaded facts are admitted, but legal conclusions are not.
PRECEDENTIAL VALUE	Published Iowa Supreme Court opinion; precedential unless subsequently limited or overruled.
PARTIES	Iowa Department of Transportation, City of Des Moines, Iowa v. Kingsway Cathedral

TOPICS

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QUESTIONS PRESENTED

1. Whether the recasted petition stated a claim for inverse condemnation under the Fifth Amendment to the Federal Constitution and article I, section 18 of the Iowa Constitution.
2. Whether temporary vibrations from public construction activities that allegedly damaged private property constitute a constitutional taking when they do not create a permanent physical invasion or servitude.
3. Whether the defendants' motions to dismiss should have been denied under Iowa's notice-pleading standard.

HOLDINGS

1. Temporary vibrations caused by demolition and construction activities do not constitute a constitutional taking because they do not create a permanent physical invasion, continuing invasion, or servitude on the property. Any resulting recovery must be pursued in tort rather than through inverse condemnation.
2. Under the facts alleged, the Iowa Constitution's takings provision provides the same result as the Federal Constitution's takings provision because Kingsway identified no basis for distinguishing the protections afforded by the two provisions.
3. The motions to dismiss should have been granted because the petition, on its face, alleged no conceivable set of facts supporting recovery on a constitutional takings claim.

KEY QUOTATIONS

“The recasted petition on its face demonstrates that there was no taking, we reverse the district court ruling and remand for an order granting the defendants’ motions to dismiss the petition.”

“In either case—regulatory taking or enterprise capacity taking—the government must compensate the owner “without any further inquiry into additional factors” when the action of the governmental entity results in a permanent physical invasion of the property.”

“Here, the recasted petition alleges that the damage to the building was caused by vibrations from the demolition and construction activities. We agree with the defendants that the only reasonable inference from this allegation is that the damage was done because of vibrations that were of a temporary nature.”

“Therefore, Kingsway’s recovery, if any, must be based on tort and not on a constitutional taking.”

FACTUAL BACKGROUND

Kingsway Cathedral owned a church building in Des Moines located near the I-235 and Martin Luther King Jr. Parkway construction projects. It alleged that vibrations from demolition and construction activities substantially

damaged the building, making it unsafe and requiring the building to be vacated. The alleged repair cost was at least \$3.9 million, compared with a pre-damage fair market value of \$580,000, and the defendants refused either to repair and restore the building or to condemn it.

PROCEDURAL HISTORY

Kingsway Cathedral filed a petition against the Iowa Department of Transportation and the City of Des Moines, later filing a recasted petition after the district court granted leave to amend. The district court denied the defendants' motions to dismiss, and the defendants sought and obtained an interlocutory appeal. The Supreme Court of Iowa reversed and remanded for an order granting the motions to dismiss.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for entry of an order granting the Iowa Department of Transportation's and the City of Des Moines's motions to dismiss the recasted petition.

CASES CITED

- Stotts v. Eveleth, 688 N.W.2d 803, 807 (Iowa 2004)
- Smith v. Smith, 513 N.W.2d 728, 730 (Iowa 1994)
- Bervid v. Iowa State Tax Comm'n, 247 Iowa 1333, 1339, 78 N.W.2d 812, 816 (1956)
- Chicago, Burlington & Quincy R.R. v. City of Chicago, 166 U.S. 226, 233-34, 17 S. Ct. 581, 583, 41 L. Ed. 979, 983-84 (1897)
- Harms v. City of Sibley, 702 N.W.2d 91, 97 (Iowa 2005)
- Bormann v. Bd. of Supervisors, 584 N.W.2d 309, 315-17, 321 (Iowa 1998)
- Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419, 421, 432 n.9, 102 S. Ct. 3164, 3168, 3174 n.9, 73 L. Ed. 2d 868, 873, 880 n.9 (1982)
- United States v. Causby, 328 U.S. 256, 265-67, 66 S. Ct. 1062, 1068, 90 L. Ed. 1206, 1212-13 (1946)
- Fitzgarrauld v. City of Iowa City, 492 N.W.2d 659, 663-64 (Iowa 1992)
- Lucas v. S.C. Coastal Council, 505 U.S. 1003, 1015, 112 S. Ct. 2886, 2893, 120 L. Ed. 2d 798, 812 (1992)
- Schaller v. State, 537 N.W.2d 738, 743 (Iowa 1995)
- Portsmouth Harbor Land & Hotel Co. v. United States, 260 U.S. 327, 329-30, 43 S. Ct. 135, 136-37, 67 L. Ed. 287, 289-90 (1922)
- Sullivan v. Massachusetts, 142 N.E.2d 347, 352-53 (Mass. 1957)
- Ohio ex rel. Fejes v. City of Akron, 213 N.E.2d 353, 354 (Ohio 1966)
- Kelley v. Story County Sheriff, 611 N.W.2d 475, 477, 482 (Iowa 2000)
- Dugan v. Rank, 372 U.S. 609, 625-26, 83 S. Ct. 999, 1009, 10 L. Ed. 2d 15, 26-27 (1963)
- Phelps v. Bd. of Supervisors, 211 N.W.2d 274, 276 (Iowa 1973)

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