

SUPREME COURT OF NORTH DAKOTA

Great Plains Royalty Corporation v. Earl Schwartz Company

2019 ND 124 (2019) · No. No. 20180285 · Decided May 16, 2019

SUMMARY

The North Dakota Supreme Court reversed and remanded a judgment quieting title to mineral interests and other property in favor of the defendants. The court held that collateral estoppel barred Earl Schwartz Company and Basin Minerals from relitigating whether the bankruptcy trustee sold all of Great Plains’ assets, but did not bind SunBehm Gas because SunBehm acquired its interest before the prior adjudication. The court also concluded the trial evidence did not support the finding that the bankruptcy sale included assets not identified in the sale notice.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Lisa Fair McEvers, Justice; Lisa Fair McEvers; Daniel J. Crothers; Jerod E. Tufte; Jon J. Jensen; Gerald W. VandeWalle, Chief Justice
JURISDICTION	North Dakota
DECIDED	May 16, 2019
DOCKET	No. 20180285
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Great Plains appealed from a district court judgment following a bench trial that quieted title to disputed oil, gas, mineral, royalty, and related interests in favor of the defendants and dismissed Great Plains' amended complaint with prejudice.
STANDARD OF REVIEW	Findings of fact after a bench trial are reviewed under the clearly erroneous standard. Conclusions of law are fully reviewable on appeal. A finding is clearly erroneous if it is induced by an erroneous view of the law, lacks evidentiary support, or leaves the appellate court convinced that a mistake has been made.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion
PARTIES	Great Plains Royalty Corporation v. Earl Schwartz Company, Basin Minerals, LLC, SunBehm Gas, Inc., Kay Schwartz York, Kathy Schwartz Mau, Kara Schwartz Johnson, as co-personal representative of the Estate of Earl N. Schwartz

TOPICS

quiet title title disputes oil and gas mineral rights appellate procedure

PRACTICE AREAS

Real estate Oil and gas Bankruptcy Civil procedure Appellate procedure

QUESTIONS PRESENTED

1. Whether collateral estoppel barred Earl Schwartz Company's and Basin Minerals, LLC's relitigation of whether the bankruptcy trustee sold all assets Great Plains owned when the bankruptcy proceeding began.
2. Whether SunBehm Gas, Inc. was in privity with Earl Schwartz Company or Basin Minerals, LLC for purposes of collateral estoppel.
3. Whether the evidence supported the district court's finding that the bankruptcy sale was intended to transfer all of Great Plains' assets, including assets not identified in the notice of sale.
4. Whether the district court correctly interpreted the bankruptcy-sale phrase 'as is' to include unidentified assets.
5. Whether Great Plains lost title to its property when it was involuntarily dissolved and whether its subsequent reinstatement restored its rights and privileges retroactively.

HOLDINGS

1. Collateral estoppel barred Earl Schwartz Company and Basin Minerals, LLC from relitigating whether Earl Schwartz purchased all assets Great Plains owned when the bankruptcy proceeding began.
2. SunBehm was not in privity with ESCO for collateral-estoppel purposes because it acquired its interest in Property No. 3 before the bankruptcy adversary proceeding began.
3. The district court clearly erred in finding that the bankruptcy trustee and Earl Schwartz intended to sell and purchase all of Great Plains' assets, including assets not identified in the notice of sale.
4. The district court erred as a matter of law by interpreting the 'as is' provision to include property that was not identified or described in the bankruptcy-sale notice.
5. Great Plains' reinstatement restored its rights and privileges retroactively, including title to property it owned before dissolution except for assets transferred before reinstatement; dissolution did not eliminate its ability to claim title.

KEY QUOTATIONS

“ “[C]ollateral estoppel, or issue preclusion, generally forecloses the relitigation, in a second action based on a different claim, of particular issues of either fact or law which were, or by logical and necessary implication must have been, litigated and determined in the prior suit.” ” (¶ 13)

“The term “as is” as it relates to real property generally refers to the condition of the property and relieves a seller of real property from defects in condition.” (¶ 38)

“Because the court’s findings are clearly erroneous, we reverse the district court’s judgment deciding ownership of certain properties and dismissing Great Plains’ complaint with prejudice. We remand for further proceedings to determine the parties’ claims and ownership of the properties consistent with this opinion.” (¶ 46)

FACTUAL BACKGROUND

Great Plains entered bankruptcy in 1968, and a Chapter 7 trustee sold identified assets at auction in 1969 to Earl Schwartz, with certain property transferred directly from the bankruptcy estate to SunBehm. Great Plains was involuntarily dissolved in 1983 but was reinstated by a Burleigh County district court in 2011. In 2013, a bankruptcy adversary proceeding resulted in summary judgment rejecting ESCO and Basin's claim that Schwartz purchased all assets Great Plains owned when the bankruptcy began. Great Plains later sued to quiet title to mineral interests, and the district court nevertheless found that all of Great Plains' assets had been sold to Schwartz and that Great Plains could not claim title after dissolution.

PROCEDURAL HISTORY

Great Plains sued to quiet title to mineral interests in McKenzie County properties and asserted related slander-of-title and conversion claims. After a bench trial, the McKenzie County District Court found that a bankruptcy trustee had sold all of Great Plains' assets to Earl Schwartz, concluded Great Plains had lost the ability to claim title after its involuntary dissolution, quieted title in favor of the defendants, and dismissed the complaint with prejudice. The North Dakota Supreme Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings to determine the parties' claims and ownership of the properties consistent with the opinion.

CASES CITED

- W. Energy Corp. v. Stauffer, 2019 ND 26, ¶ 5, 921 N.W.2d 431
- Hector v. City of Fargo, 2014 ND 53, ¶ 7, 844 N.W.2d 542
- Ungar v. N.D. State Univ., 2006 ND 185, ¶¶ 10, 12, 721 N.W.2d 16
- Estate of Pedro v. Scheeler, 2014 ND 237, ¶ 10, 856 N.W.2d 775
- Kulczyk v. Tioga Ready Mix Co., 2017 ND 218, ¶ 10, 902 N.W.2d 485
- Missouri Breaks v. Burns, 2010 ND 221, ¶ 10, 791 N.W.2d 33
- Norberg v. Norberg, 2017 ND 14, ¶¶ 9, 12-13, 21, 889 N.W.2d 889
- Riemers v. Peters-Riemers, 2004 ND 153, ¶ 9, 684 N.W.2d 619
- State v. Lange, 497 N.W.2d 83, 86 (N.D. 1993)
- Riverwood Commercial Park, L.L.C. v. Standard Oil Co., Inc., 2007 ND 36, ¶ 21, 729 N.W.2d 101

- Bismarck Pub. Sch. Dist. No. 1 v. Hirsch, 136 N.W.2d 449, 451-52, 454 (N.D. 1965)
- Gerrity Bakken, LLC v. Oasis Petroleum N. Am., LLC, 2018 ND 180, ¶ 17, 915 N.W.2d 677
- In re A.H. R.S. Coal Corp., 8 B.R. 455, 458 (Bankr. W.D. Pa. 1981)
- In re Landsource Communities, Dev. LLC, 485 B.R. 310, 320 (D. Del. 2013)
- Pascarella v. Comm'r of Rev. Servs., 989 A.2d 1092, 1094-95 (Conn. App. Ct. 2010)

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