

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Margaret Kinzli; Evelyn Goossen; Philip Kinzli; Ernest Kinzli v. City of Santa Cruz

818 F.2d 1449 (9th Cir. 1987) · No. Nos. 86-1504, 86-1624 · Decided August 7, 1987

SUMMARY

The Ninth Circuit held that the plaintiffs' regulatory takings, equal protection, substantive due process, and related claims concerning Santa Cruz land-use restrictions were not ripe because they had not obtained a final decision on permitted development or pursued required variances. The court also held that claims arising from alleged unkept promises connected to a prior condemnation proceeding required a state-court determination before becoming ripe. It reversed and ordered the district court to vacate its merits decisions.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	Cynthia Holcomb Hall; Goodwin; Pregerson; Hall
JURISDICTION	Federal
DECIDED	August 7, 1987
DOCKET	Nos. 86-1504, 86-1624
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiffs appealed from a district court judgment dismissing on the merits their regulatory takings, equal protection, and 42 U.S.C. § 1983 claims, and granting summary judgment to the City on substantive due process and claims arising from an earlier condemnation proceeding.
STANDARD OF REVIEW	Ripeness was reviewed de novo.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Margaret Kinzli, Evelyn Goossen, Philip Kinzli, Ernest Kinzli v. City of Santa Cruz

TOPICS

- takings clause
- real estate
- zoning
- section 1983
- subject matter jurisdiction

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Kinzlis' regulatory takings claim was ripe where they had not obtained a final determination concerning permitted development, had not sought a variance, and had not pursued available state compensation procedures.
2. Whether the Kinzlis' equal protection claim was ripe before planning authorities and state review entities made a final determination regarding the property's status.
3. Whether the substantive due process claim was premature because the City had not made a final decision regarding application of the regulations to the property.
4. Whether claims arising from the City's alleged failure to fulfill promises associated with the 1970 condemnation were ripe before the Kinzlis sought a final determination and compensation through available California procedures.

HOLDINGS

1. The regulatory takings claim was not ripe because the Kinzlis had not obtained a final and authoritative determination of the type and intensity of development permitted on the property.
2. The futility exception did not excuse the Kinzlis' failure to obtain a final decision because they had not submitted at least one meaningful development application or sought a variance.
3. The equal protection claim was not ripe until planning authorities and state review entities made a final determination regarding the status of the property.
4. The substantive due process claim was premature because the City had not made a final decision regarding the application of its regulations to the property.
5. Claims for additional compensation based on the City's post-condemnation conduct and alleged unkept development promises were not ripe because the Kinzlis had not first sought a final determination and compensation through available and adequate California procedures.

KEY QUOTATIONS

"We hold that all of the Kinzlis' claims were not ripe for adjudication by the district court, and therefore vacate the district court's judgment." (818 F.2d at 1452)

"A court cannot determine whether a regulation has gone 'too far' unless it knows how far the regulation goes." (818 F.2d at 1454)

"Adoption of such standards would require courts to speculate as to what potential uses may be lurking in the hopes of the property owner and in the minds of developers and city planners." (818 F.2d at 1456)

FACTUAL BACKGROUND

The Kinzli family purchased the property in 1925. In 1970, following a condemnation action, the City obtained a right-of-way through approximately four acres for a road that was never built, while representing that the

property could be developed for commercial and higher-density residential purposes. In 1979, Santa Cruz voters adopted Measure O, and the City later enacted a Greenbelt Overlay Ordinance restricting development on the property. The Kinzlis attempted to pursue residential development, but the prospective developer abandoned the application early and the Kinzlis never submitted a meaningful development plan or sought a variance.

PROCEDURAL HISTORY

The Kinzlis filed the action in 1980 challenging Santa Cruz's land-use restrictions and conduct associated with the 1968-1970 condemnation proceedings. The district court held that no taking had occurred, found no equal protection violation, dismissed the pendent California inverse-condemnation claim, and granted summary judgment on the condemnation-related and substantive due process claims. The Ninth Circuit held that the claims were not ripe and reversed, directing the district court to vacate its merits decisions.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court was ordered to vacate its decisions on the merits. The claims were to be dismissed for lack of jurisdiction because they were not ripe.

CASES CITED

- Kinzli v. City of Santa Cruz, 620 F. Supp. 609 (N.D. Cal. 1985)
- MacDonald, Sommer & Frates v. Yolo County, 477 U.S. 340 (1986)
- Williamson County Regional Planning Commission v. Hamilton Bank, 473 U.S. 172 (1985)
- Agins v. City of Tiburon, 447 U.S. 255 (1980)
- Norco Construction, Inc. v. King County, 801 F.2d 1143 (9th Cir. 1986)
- Martino v. Santa Clara Valley Water District, 703 F.2d 1141 (9th Cir. 1983)
- American Savings & Loan Ass'n v. County of Marin, 653 F.2d 364 (9th Cir. 1981)
- Penn Central Transportation Co. v. City of New York, 438 U.S. 104 (1978)
- First English Evangelical Lutheran Church of Glendale v. County of Los Angeles, 482 U.S. 304 (1987)
- Furey v. City of Sacramento, 780 F.2d 1448 (9th Cir. 1986)
- City of Alameda v. Cohen, 133 Cal. 5, 65 P. 127 (1901)
- People v. Adamson, 118 Cal. App. 2d 714, 258 P.2d 1020 (1953)
- People ex rel. Department of Public Works v. Schultz Co., 123 Cal. App. 2d 925, 268 P.2d 117 (1954)
- Chicago, Burlington & Quincy Railroad Co. v. City of Chicago, 166 U.S. 226 (1897)
- San Antonio Independent School District v. Rodriguez, 411 U.S. 1 (1973)
- Parks v. Watson, 716 F.2d 646 (9th Cir. 1983)
- Assiniboine and Sioux Tribes v. Board of Oil and Gas, 792 F.2d 782 (9th Cir. 1986)

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