

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Johnson Family Trust v. Antero Resources Corporation

Johnson Family Trust v. Antero Resources Corp., No. 16-0070 (W. Va. Nov. 10, 2016) · No. No. 16-0070 ·
Decided November 10, 2016

SUMMARY

The West Virginia Supreme Court of Appeals affirmed summary judgment for Antero Resources Corporation in a dispute concerning a surface use agreement for oil and gas development. The court held that the agreement continued beyond its initial two-year term because Antero was using the property for permitted oil and gas development and transmission, and it rejected or declined to address the petitioner’s additional reclamation and unauthorized-use arguments. The decision was issued as a memorandum decision under Rule 21 of the West Virginia Rules of Appellate Procedure.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Menis E. Ketchum; Justice Robin Jean Davis; Justice Brent D. Benjamin; Justice Margaret L. Workman; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	November 10, 2016
DOCKET	No. 16-0070
DISPOSITION	affirmed
PROCEDURAL POSTURE	Johnson Family Trust appealed the denial of its Rule 59(e) motion to alter or amend the judgment granting Antero Resources Corporation summary judgment and denying the Trust's motion to evict Antero and for forfeiture of bond.
STANDARD OF REVIEW	The standard of review for an appeal from a Rule 59(e) motion is the same standard applicable to the underlying judgment. Summary judgment is reviewed de novo.
PRECEDENTIAL VALUE	nonprecedential memorandum decision
PARTIES	Johnson Family Trust v. Antero Resources Corporation

TOPICS

oil and gas

mineral rights

breach of contract

summary judgment

appellate procedure

PRACTICE AREAS

contract law

oil and gas

real property

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether Antero breached the Surface Use Agreement by failing to reclaim the property after the initial two-year period.
2. Whether Antero breached the Surface Use Agreement by using the property for allegedly unauthorized purposes, including water operations, vehicle parking, chemical and pipe storage, lighting, and a temporary building.
3. Whether summary judgment was properly granted to Antero on the Trust's breach-of-contract claims.

HOLDINGS

1. The Surface Use Agreement did not expire after two years because it continued as long as its facilities were utilized for oil and gas development and transmission. Because Antero continued using the property for those purposes, its failure to reclaim the property did not breach the agreement.
2. The Trust failed to establish that Antero's use of the surface for water operations, vehicle parking, chemical or pipe storage, temporary lighting, and a temporary building was unauthorized or outside the agreement's permitted purposes.
3. The Trust failed to create a genuine issue of material fact because it relied on unsupported assertions and did not provide evidence showing breach or disputing Antero's evidence.

KEY QUOTATIONS

“The evidence demonstrates that Antero is still using the property for purposes of oil and gas development and transmission, as permitted under the SUA, and, thus, Antero has not breached the contract by not reclaiming the property.” (4)

“Where there has been a severance of the mineral estate and the deed gives the grantee the right to utilize the surface, such surface use must be for purposes reasonably necessary to the extraction of the minerals.” (6)

FACTUAL BACKGROUND

The parties executed a Surface Use Agreement on May 8, 2009, granting Antero rights to conduct oil and gas development and transmission activities on the Trust's property. The agreement provided for a two-year initial term and continuation thereafter while facilities were used for oil and gas development and transmission. Antero constructed and maintained three producing gas wells and continued using the property for activities including water operations, pipelines, equipment storage, parking, lighting, and a temporary building. The Trust claimed that Antero's post-completion activities breached the agreement and required reclamation, but it submitted no evidence sufficient to create a genuine issue of material fact.

PROCEDURAL HISTORY

The Trust filed a breach-of-contract complaint in the Circuit Court of Harrison County on August 29, 2013. The circuit court granted Antero's motion for summary judgment and denied the Trust's motion to evict and forfeit bond on March 4, 2015, then denied the Trust's motion to alter or amend on December 29, 2015. The Supreme Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Wickland v. American Travellers Life Insurance Co., 204 W. Va. 430, 513 S.E.2d 657 (1998)
- Tolliver v. Kroger Co., 201 W. Va. 509, 498 S.E.2d 702 (1997)
- Jividen v. Law, 194 W. Va. 705, 461 S.E.2d 451 (1995)
- Greenfield v. Schmidt Baking Co., Inc., 199 W. Va. 447, 485 S.E.2d 391 (1997)
- Painter v. Peavy, 192 W. Va. 189, 451 S.E.2d 755 (1994)
- McGraw v. St. Joseph's Hospital, 200 W. Va. 114, 488 S.E.2d 389 (1997)
- McCullough Oil, Inc. v. Rezek, 176 W. Va. 638, 346 S.E.2d 788 (1986)
- Williams v. Precision Coil, Inc., 194 W. Va. 52, 459 S.E.2d 329 (1995)
- Barbina v. Curry, 221 W. Va. 41, 650 S.E.2d 140 (2007)
- West Virginia Fire & Casualty Co. v. Mathews, 209 W. Va. 107, 543 S.E.2d 664 (2000)
- State, Department of Health v. Robert Morris N., 195 W. Va. 759, 466 S.E.2d 827 (1995)
- United States v. Dunkel, 927 F.2d 955 (7th Cir. 1991)
- State v. Lilly, 194 W. Va. 595, 461 S.E.2d 101 (1995)
- Ohio Cellular RSA Ltd. Partnership v. Board of Public Works of West Virginia, 198 W. Va. 416, 481 S.E.2d 722 (1997)
- Buffalo Mining Co. v. Martin, 165 W. Va. 10, 267 S.E.2d 721 (1980)
- Squires v. Lafferty, 95 W. Va. 307, 121 S.E. 90 (1924)