

SUPREME COURT OF CONNECTICUT

Dattco, Inc. v. Commissioner of Transportation; Collins Bus Service, Inc. v. Commissioner of Transportation; Nason Partners, LLC v. Commissioner of Transportation; The New Britain Transportation Company v. Commissioner of Transportation, 324 Conn. 39

151 A.3d 823 (2016) · No. SC 19558 · Decided December 27, 2016

SUMMARY

The Connecticut Supreme Court held that General Statutes § 13b-36 (a) does not authorize the Commissioner of Transportation to condemn bus companies' certificates of public convenience and necessity as "facilities." Construing the eminent-domain delegation strictly and in favor of property owners, the court concluded that "facilities" refers to tangible transportation assets rather than intangible operating rights. The court reversed the trial court's summary judgments for the commissioner and remanded for further proceedings concerning possible injunctive relief.

CASE DETAILS

COURT	Supreme Court of Connecticut
WRITING FOR THE COURT	Zarella, J.; Palmer, J.; Eveleigh, J.; McDonald, J.; Robinson, J.; Vertefeuille, J.
JURISDICTION	Connecticut
DECIDED	December 27, 2016
DOCKET	SC 19558
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The plaintiffs appealed from consolidated trial-court judgments granting the Commissioner's motions for summary judgment and denying the plaintiffs' motions for summary judgment in actions seeking to prevent condemnation of their certificates of public convenience and necessity.
STANDARD OF REVIEW	The grant or denial of summary judgment is reviewed de novo, or plenary, because it presents a question of law. Statutory interpretation is also reviewed de novo.
PRECEDENTIAL VALUE	Published Connecticut Supreme Court opinion; precedential.

PARTIES

Dattco, Inc., Collins Bus Service, Inc., Nason Partners, LLC, The New Britain Transportation Company v. Commissioner of Transportation

TOPICS

statutory interpretation

administrative law

judicial review of agency action

remedies

equitable relief

PRACTICE AREAS

Administrative law

Eminent domain

Statutory interpretation

Summary judgment

Equitable remedies

QUESTIONS PRESENTED

1. Whether General Statutes § 13b-36 (a), which authorizes the Commissioner of Transportation to take land, buildings, equipment, or facilities necessary for transportation services, delegates authority to condemn certificates of public convenience and necessity or the intangible operating rights they reflect.
2. Whether the Commissioner's incidental statutory powers or General Statutes § 13b-34 (c) independently authorize condemnation of the certificates.
3. What relief should be ordered after determining that the Commissioner lacked authority to condemn the certificates.

HOLDINGS

1. General Statutes § 13b-36 (a) does not authorize the Commissioner of Transportation to condemn the plaintiffs' certificates or the intangible operating rights reflected in them. The term "facilities," construed according to its common meaning and statutory context, refers to tangible transportation assets rather than government-issued operating rights.
2. The Commissioner's incidental powers under General Statutes § 13b-23 and the authority in § 13b-34 (c) do not clearly delegate power to condemn the certificates.

KEY QUOTATIONS

“A delegation of eminent domain power must be clearly given and strictly construed”

“We conclude that § 13b-36 (a) does not permit the commissioner to take intangible operating rights like those reflected in the certificates in question.”

FACTUAL BACKGROUND

The plaintiffs are four bus companies operating routes in and around Hartford and New Britain, each holding a certificate of public convenience and necessity authorizing service over specified routes. The certificates, issued before October 1, 1979, remained valid and had not been suspended or revoked. After the state constructed a busway incorporating some of the plaintiffs' routes, the Commissioner condemned the certificates under General Statutes § 13b-36 (a) so that new operators could use the routes.

PROCEDURAL HISTORY

After the Commissioner condemned the plaintiffs' certificates while related litigation concerning operation of the routes was pending, the four bus companies filed separate actions seeking injunctive and other relief. The trial court consolidated the actions, granted summary judgment to the Commissioner, and rendered judgment in his favor. The Supreme Court of Connecticut reversed and remanded for judgment for the plaintiffs on the condemnation issue and further proceedings concerning possible injunctive relief.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must deny the Commissioner's motion for summary judgment, grant the plaintiffs' motion for summary judgment on the condemnation issue, render judgment for the plaintiffs on that issue, and conduct further proceedings to determine whether injunctive relief is necessary and, if so, the parameters of any injunction.

CASES CITED

- Rocco v. Garrison, 268 Conn. 541, 548–49, 848 A.2d 352 (2004)
- Gray Line Bus Co. v. Greater Bridgeport Transit District, 188 Conn. 417, 423, 449 A.2d 1036 (1982)
- Northeastern Gas Transmission Co. v. Collins, 138 Conn. 582, 586–87, 592, 87 A.2d 139 (1952)
- Pequonnock Yacht Club, Inc. v. Bridgeport, 259 Conn. 592, 601, 790 A.2d 1178 (2002)
- Potvin v. Lincoln Service & Equipment Co., 298 Conn. 620, 633, 6 A.3d 60 (2010)
- Hartford Electric Light Co. v. Federal Power Commission, 131 F.2d 953, 961 (2d Cir. 1942), cert. denied, 319 U.S. 741, 63 S. Ct. 1028, 87 L. Ed. 1698 (1943)
- Lynnwood Utility Co. v. Franklin, Tennessee Court of Appeals, Docket No. 89-360-II (April 6, 1990)
- Staples v. Palten, 214 Conn. 195, 199–200, 571 A.2d 97 (1990)
- Lopa v. Brinker International, Inc., 296 Conn. 426, 433, 994 A.2d 1265 (2010)
- In re Williams D., 284 Conn. 305, 313, 933 A.2d 1147 (2007)
- In re Jusstice W., 308 Conn. 652, 664–65, 65 A.3d 487 (2012)
- Mississippi Power & Light Co. v. Clarksdale, 288 So. 2d 9, 11–12 (Miss. 1973)
- State v. B.B., 300 Conn. 748, 759, 17 A.3d 30 (2011)
- Mashak v. Poelker, 367 S.W.2d 625 (Mo. 1963)

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