

SUPREME COURT OF GEORGIA

Rabun County v. Mountain Creek Estates, LLC, 280 Ga. 855

632 S.E.2d 140 (2006) · No. Nos. S06A0042, S06A0043 · Decided July 6, 2006

SUMMARY

The Supreme Court of Georgia held that Rabun County was immune from Mountain Creek Estates' inverse-condemnation damages claim because the County's refusal to accept subdivision roads was an omission that did not constitute a taking. The court affirmed mandamus relief requiring the County to accept the roads, concluding that the evidence supported the jury's finding that the roads complied with applicable county requirements. The court also affirmed a \$15,000 attorney-fee award under OCGA § 9-15-14, while reversing the \$472,280 damages award.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Melton, Justice; Hines, Justice; Hunstein, Presiding Justice; Sears, Chief Justice
JURISDICTION	Georgia
DECIDED	July 6, 2006
DOCKET	Nos. S06A0042, S06A0043
DISPOSITION	other
PROCEDURAL POSTURE	The County appealed judgments granting Mountain Creek mandamus relief, awarding inverse-condemnation damages, and awarding attorney fees. The appeals were docketed as Case Nos. S06A0042 and S06A0043.
STANDARD OF REVIEW	For review of the denial of a directed verdict, the court affirmed if any evidence supported the jury's verdict, construing the evidence in the light most favorable to the prevailing party. The court also reviewed the record for support of the trial court's attorney-fee award.
PRECEDENTIAL VALUE	Published Georgia Supreme Court opinion; precedential.
PARTIES	Rabun County v. Mountain Creek Estates, LLC

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Mountain Creek stated a viable inverse-condemnation claim permitting damages notwithstanding county sovereign immunity.
2. Whether the evidence supported the jury's finding that the subdivision roads complied with the County's shoulder-width requirements and supported mandamus relief.
3. Whether requiring the County to accept the roads constituted an unlawful gratuity or was prohibited by OCGA § 32-3-3(d).
4. Whether the trial court properly awarded attorney fees under OCGA § 9-15-14.

HOLDINGS

1. A county's refusal to accept privately constructed subdivision roads is an omission that raises mandamus issues but does not constitute an inverse condemnation or a taking supporting damages. Because no viable inverse-condemnation claim was stated, the County retained sovereign immunity from the damages claim.
2. Mountain Creek could not stack mandamus relief and monetary damages for the same governmental act where sovereign immunity barred the damages claim and mandamus was available to compel the County's action.
3. The evidence was sufficient to support the jury's finding that Mountain Creek's roads complied with the applicable shoulder requirement, and the same evidence supported mandamus relief.
4. The County's acceptance of the subdivision roads was not an illegal gratuity, and OCGA § 32-3-3(d) did not prohibit acquisition of the roads by dedication.
5. The trial court properly awarded Mountain Creek \$15,000 in attorney fees because the County relied at trial on an expert's list of road improvements containing requirements not imposed by the County ordinance.

KEY QUOTATIONS

“This case revolves around Mountain Creek's contention that the County abused its discretion by refusing to accept roads on its property in accordance with a county ordinance. This is an archetypal mandamus claim, to which that area of the law is uniquely suited and was properly applied in this matter.” (632 S.E.2d 143)

“Mountain Creek's ability to use and enjoy the property remains exactly the same as the day that the property was purchased, at which time the property had no county-maintained roads.” (632 S.E.2d 144)

“The law simply does not allow this stacking of remedies.” (632 S.E.2d 144)

FACTUAL BACKGROUND

Mountain Creek developed a subdivision and constructed roads within it. Rabun County refused to accept ownership of the roads, asserting that they failed to satisfy the County's shoulder-width specifications. The jury found that Mountain Creek complied with the subdivision requirements and that the County unreasonably withheld approval; the trial court then granted mandamus relief, ordered acceptance of the roads, awarded \$472,280 in inverse-condemnation damages, and awarded \$15,000 in attorney fees.

PROCEDURAL HISTORY

Mountain Creek sued after Rabun County refused to accept ownership of subdivision roads, seeking damages and mandamus relief. A jury found that the roads complied with county requirements, that the County unreasonably withheld approval, and awarded \$472,280 in inverse-condemnation damages. The trial court ordered the County to accept the roads and awarded Mountain Creek \$15,000 in attorney fees under OCGA § 9-15-14. The Supreme Court of Georgia affirmed the mandamus and attorney-fee awards but reversed the damages award.

DISPOSITION

other

CASES CITED

- Department of Transportation v. Edwards, 267 Ga. 733, 482 S.E.2d 260 (1997)
- Duffield v. DeKalb County, 242 Ga. 432, 249 S.E.2d 235 (1978)
- Powell v. Ledbetter Bros., 251 Ga. 649, 307 S.E.2d 663 (1983)
- Columbia County v. Doolittle, 270 Ga. 490, 512 S.E.2d 236 (1999)
- Ford Motor Co. v. Lawrence, 279 Ga. 284, 612 S.E.2d 301 (2005)
- Georgia Power Co. v. Irvin, 267 Ga. 760, 482 S.E.2d 362 (1997)
- Garden Club of Georgia v. Shackelford, 266 Ga. 24, 463 S.E.2d 470 (1995)
- Grand Lodge of Georgia v. City of Thomasville, 226 Ga. 4, 172 S.E.2d 612 (1970)
- Palazzolo v. Rhode Island, 533 U.S. 606, 121 S. Ct. 2448, 150 L. Ed. 2d 592 (2001)
- Mann v. State, 278 Ga. 442, 603 S.E.2d 283 (2004)
- R & Y, Inc. v. Municipality of Anchorage, 34 P.3d 289 (Alaska 2001)
- K & K Construction, Inc. v. Department of Environmental Quality, 267 Mich. App. 523, 705 N.W.2d 365 (Mich. Ct. App. 2005)
- City of Monterey v. Del Monte Dunes at Monterey, Ltd., 526 U.S. 687, 119 S. Ct. 1624, 143 L. Ed. 2d 882 (1999)
- DeKalb County v. Orwig, 261 Ga. 137, 402 S.E.2d 513 (1991)
- Reid v. Gwinnett County, 242 Ga. 88, 249 S.E.2d 559 (1978)