

SUPREME COURT OF TEXAS

Exxon Corporation and Exxon Texas, Inc. v. Emerald Oil & Gas Company, L.C.

331 S.W.3d 419 (Tex. 2010) · No. No. 05-0729 · Decided December 17, 2010

SUMMARY

The Supreme Court of Texas held that Texas Natural Resources Code section 85.321 creates a private cause of action for damages resulting from violations of applicable conservation laws, regulations, or orders. However, a subsequent mineral lessee lacks standing to sue for damage that occurred before the lessee acquired its interest, absent an assignment of the claim. The court reversed the court of appeals and rendered judgment that Emerald Oil & Gas take nothing.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Justice Wainwright
JURISDICTION	Texas
DECIDED	December 17, 2010
DOCKET	No. 05-0729
DISPOSITION	reversed
PROCEDURAL POSTURE	Exxon petitioned the Supreme Court of Texas for review of the court of appeals' reversal and remand of the trial court's partial summary judgment dismissing Emerald's statutory claims.
STANDARD OF REVIEW	De novo review of summary judgment.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Exxon Corporation and Exxon Texas, Inc. v. Emerald Oil & Gas Company, L.C.

TOPICS

[oil and gas](#)[mineral rights](#)[statutory interpretation](#)[appellate procedure](#)[standard of review](#)

PRACTICE AREAS

[oil and gas](#)[mineral rights](#)[statutory interpretation](#)[appellate procedure](#)[real estate](#)

QUESTIONS PRESENTED

1. Whether Texas Natural Resources Code section 85.321 creates a private cause of action for damages resulting from violations of applicable conservation laws, Railroad Commission rules, or orders.
2. Whether a subsequent mineral lessee has standing under section 85.321 to recover for damage to the mineral interest allegedly caused by a prior lessee before the subsequent lessee acquired its interest.
3. Whether Emerald could maintain a negligence-per-se claim based on the same alleged statutory violations despite lacking standing under section 85.321.

HOLDINGS

1. Section 85.321 creates a private cause of action for damages and other available relief for violations of the specified conservation laws, state laws prohibiting waste, or valid Railroad Commission rules or orders.
2. A subsequent lessee lacks standing under section 85.321 to sue a prior lessee for damage to the mineral interest that occurred before the subsequent lessee acquired its interest, absent an express assignment of the cause of action.
3. Because Emerald lacked standing to pursue a section 85.321 claim, it likewise lacked standing to pursue a negligence-per-se claim arising from the same alleged statutory violations.

KEY QUOTATIONS

“We hold that section 85.321 creates a private cause of action that does not extend to subsequent lessees.”
(420)

“Absent a legislative enactment clearly abrogating the common law, we conclude that Emerald does not have standing as a subsequent lessee to pursue a claim under section 85.321 for Exxon’s alleged wrongful actions as a prior lessee.” (425)

FACTUAL BACKGROUND

Exxon’s predecessor held mineral leases in the O’Connor Field and completed abandonment of the wells in 1991 after unsuccessful efforts to renegotiate royalty terms. Emerald acquired leases covering part of the field in 1993 and alleged that Exxon had improperly plugged and intentionally sabotaged the wells with metal, refuse, environmental contaminants, nondrillable material, and cut casing. Emerald did not own an interest in the leases when the alleged damage occurred and did not receive an assignment of the original lessee’s claim.

PROCEDURAL HISTORY

Emerald sued Exxon on claims arising from alleged improper plugging and sabotage of oil wells, including statutory-duty and negligence-per-se claims. The trial court granted Exxon partial summary judgment on those statutory claims, severed them, and proceeded with trial on Emerald’s remaining claims. The court of appeals reversed and remanded the statutory claims, holding that Texas Natural Resources Code section 85.321 imposed a duty on current lessees to future lessees. The Supreme Court of Texas reversed the court of appeals and rendered judgment that Emerald take nothing.

DISPOSITION

reversed

CASES CITED

- Exxon Corp. v. Miesch, ___ S.W.3d ___ (Tex. 2010) (reh'g op.)
- Provident Life & Accident Ins. Co. v. Knott, 128 S.W.3d 211, 215 (Tex. 2003)
- McIntyre v. Ramirez, 109 S.W.3d 741, 745 (Tex. 2003)
- HECI Exploration Co. v. Neel, 982 S.W.2d 881, 884-91 (Tex. 1998)
- Magnolia Petroleum Co. v. Blankenship, 85 F.2d 553, 554, 556 (5th Cir. 1936)
- Turnbow v. Lamb, 95 F.2d 29, 31 (5th Cir. 1938)
- Sun Oil Co. v. Martin, 330 F.2d 5, 5 (5th Cir. 1964)
- Sun Oil Co. v. Martin, 218 F. Supp. 618, 621-22 (S.D. Tex. 1963)
- Ivey v. Phillips Petroleum Co., 36 F. Supp. 811, 816 (S.D. Tex. 1941)
- Alex Sheshunoff Mgmt. Servs., L.P. v. Johnson, 209 S.W.3d 644, 651-52 (Tex. 2006)
- Houston Water-Works Co. v. Kennedy, 70 Tex. 233, 8 S.W. 36, 37 (1888)
- Abbott v. City of Princeton, 721 S.W.2d 872, 875 (Tex. App.—Dallas 1986, writ ref'd n.r.e.)
- Lay v. Aetna Ins. Co., 599 S.W.2d 684, 686 (Tex. Civ. App.—Austin 1980, writ ref'd n.r.e.)
- Vann v. Bowie Sewerage Co., 127 Tex. 97, 90 S.W.2d 561, 562-63 (1936)
- Haire v. Nathan Watson Co., 221 S.W.3d 293, 298 (Tex. App.—Fort Worth 2007, no pet.)
- Cook v. Exxon Corp., 145 S.W.3d 776, 781 (Tex. App.—Texarkana 2004, no pet.)
- Exxon Corp. v. Pluff, 94 S.W.3d 22, 27 (Tex. App.—Tyler 2002, pet. denied)
- Senn v. Texaco, Inc., 55 S.W.3d 222, 225 (Tex. App.—Eastland 2001, pet. denied)
- Tooke v. City of Mexia, 197 S.W.3d 325, 342-43 (Tex. 2006)
- City of Texarkana v. City of New Boston, 141 S.W.3d 778 (Tex. App.—Texarkana 2004)