

SUPREME COURT OF MISSISSIPPI

Eller Media Company v. Mississippi Transportation Commission

Eller Media · No. No. 2003-CA-01461-SCT · Decided July 22, 2003

SUMMARY

The Mississippi Supreme Court held that a settlement under threat of eminent domain did not constitute a sale under the billboard lease's termination provision. The court concluded that the lease was not terminated and that Eller Media had a compensable interest in the condemnation proceeding. It reversed the judgment requiring Eller Media to repay \$42,000 and remanded for determination of the value of its compensable interest.

CASE DETAILS

|                       |                                                                                                                                                                                                                    |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Mississippi                                                                                                                                                                                       |
| WRITING FOR THE COURT | Waller, Presiding Justice; Waller, P.J.; Easley, J.; Carlson, J.; Cobb, P.J.; Dickinson, J.; Randolph, J.; Graves, J.; Smith, C.J.; Diaz, J.                                                                       |
| JURISDICTION          | Mississippi                                                                                                                                                                                                        |
| DECIDED               | July 22, 2003                                                                                                                                                                                                      |
| DOCKET                | No. 2003-CA-01461-SCT                                                                                                                                                                                              |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                              |
| PROCEDURAL POSTURE    | Eller Media appealed from a judgment of the DeSoto County Special Court of Eminent Domain determining that it had no compensable interest in the condemned property and ordering it to return \$42,000.            |
| STANDARD OF REVIEW    | The opinion does not expressly identify a standard of review; it reviewed the special court's legal conclusions concerning interpretation of the lease and the existence of a compensable eminent-domain interest. |
| PRECEDENTIAL VALUE    | precedential                                                                                                                                                                                                       |
| PARTIES               | Eller Media Company v. Mississippi Transportation Commission                                                                                                                                                       |

TOPICS

- eminent domain
- contracts
- real estate
- appellate procedure
- remedies

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether a settlement under threat of condemnation constituted a sale under the terms of the lease.
2. Whether Eller Media had a compensable interest in the condemned billboard structure and leasehold.

## HOLDINGS

1. A condemnation settlement between the landowner and the governmental condemning authority did not constitute a sale under the lease's termination provision; consequently, the lease was not terminated.
2. Eller Media had a compensable interest in the condemnation proceeding because its billboard was a structure adversely affected by the acquisition.

## KEY QUOTATIONS

*“Any structure which is adversely affected by an acquisition “shall be acquired” and is compensable “notwithstanding the right or obligation of the tenant . . . to remove such” structure or improvement.” (¶13)*

## FACTUAL BACKGROUND

The South Mississippi Electric Power Association leased land along U.S. Highway 61 in DeSoto County to Eller Media for installation of a billboard, with the parties sharing billboard revenues. The lease required Eller Media to remove its structure and terminate the lease within 45 days after written notice if the lessor sold the property and the new owner did not want to continue the lease. The Transportation Commission acquired the property for a road project through condemnation proceedings, and the landowner accepted a settlement to avoid litigation rather than because it was willing to sell. The special court treated the condemnation settlement as a sale and ruled that Eller Media had no compensable interest.

## PROCEDURAL HISTORY

The Mississippi Transportation Commission condemned property owned by the South Mississippi Electric Power Association and paid compensation into the court registry, including a \$42,000 payment to Eller Media for its billboard-related interest. The Commission later moved to try title, arguing that the lease had terminated under a provision triggered by a sale of the property to a new owner unwilling to continue the lease. The special court found that the lease had terminated and that Eller Media had no compensable interest, entered judgment requiring repayment of \$42,000, and Eller Media appealed.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

The case was remanded for a determination of the value of Eller Media's compensable interest and any other necessary proceedings consistent with the opinion.

## CASES CITED

- Brown v. Miss. Transp. Comm'n, 749 So. 2d 948, 957-58 (Miss. 1999)
- State Hwy. Comm'n v. Hyman, 592 So. 2d 952, 957 (Miss. 1991)
- Morley v. Jackson Redevelopment Auth., 632 So. 2d 1284, 1291 (Miss. 1994)
- United States Fid. & Guar. Co. v. Knight, 882 So. 2d 85, 92 (Miss. 2004)
- Miss. State Hwy. Comm'n v. Taylor, 293 So. 2d 9, 10-11 (Miss. 1974)
- Eller Media Co. v. Miss. Transp. Comm'n, 882 So. 2d 198, 201, 204 (Miss. 2004)
- State v. Card, 413 N.W.2d 577 (Minn. Ct. App. 1987)
- Lamar Corp. v. State Hwy. Comm'n, 684 So. 2d 601, 604 (Miss. 1996)

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