

SUPREME COURT OF PENNSYLVANIA

Hughes v. UGI Storage Company; Albrecht v. UGI Storage Company

Nos. 49 MAP 2021 and 50 MAP 2021 · No. Nos. 49 MAP 2021 and 50 MAP 2021 · Decided November 29, 2021

SUMMARY

The Pennsylvania Supreme Court considers consolidated appeals concerning whether UGI Storage Company may be liable for an alleged de facto taking under Pennsylvania's inverse-condemnation statute. The Court addresses whether an entity must possess eminent-domain authority specific to the property at issue, as opposed to general condemnation authority, and discusses the effect of UGI's federal certification and proposed buffer zone around the Meeker natural-gas storage field. The excerpt reflects the Court's review of the underlying pleadings, preliminary objections, and procedural history.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Thomas G. Saylor; Chief Justice Baer; Justice Saylor; Justice Todd; Justice Donohue; Justice Dougherty; Justice Wecht
JURISDICTION	Pennsylvania
DECIDED	November 29, 2021
DOCKET	Nos. 49 MAP 2021 and 50 MAP 2021
DISPOSITION	vacated
PROCEDURAL POSTURE	Consolidated appeals from Commonwealth Court decisions affirming the Tioga County Court of Common Pleas' dismissal of petitions for appointment of boards of viewers in alleged inverse-condemnation actions.
STANDARD OF REVIEW	The Supreme Court reviewed the interpretation of the Eminent Domain Code de novo. The opinion also addressed the legal sufficiency of the inverse-condemnation theory and whether factual disputes required an evidentiary hearing before dismissal.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Pennsylvania
PARTIES	Carl F. Hughes and Ellen B. Hughes, H/W, Bruce D. Hughes and Margaret K. Hughes, H/W, individually and on behalf of all others

similarly situated, John Albrecht, individually and on behalf of all others similarly situated v. UGI Storage Company

TOPICS

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PRACTICE AREAS

eminent domain property law natural gas and mineral rights civil procedure appellate procedure

QUESTIONS PRESENTED

1. Whether a public or quasi-public entity must possess eminent-domain authority specifically applicable to the affected property to be subject to an inverse-condemnation or de facto-taking claim under Pennsylvania's Eminent Domain Code.
2. Whether the Commonwealth Court should address the common pleas court's alternative determination that the landowners waived or failed to establish their entitlement to an evidentiary hearing.

HOLDINGS

1. A public or quasi-public entity need not possess a property-specific power of eminent domain in order to implicate inverse-condemnation principles under Pennsylvania's Eminent Domain Code.
2. The Commonwealth Court's order was vacated and the matter was remanded for further proceedings addressing the common pleas court's alternative disposition based on the landowners' purported waiver or failure to present evidence at an evidentiary hearing.

KEY QUOTATIONS

“we hold that a public or quasi-public entity need not possess a property-specific power of eminent domain in order to implicate inverse condemnation principles.” (J-69A&B-2021, at 25)

“The plain terms of the enactment, therefore, support Appellants’ position, or in other words, the statute simply does not signify a requirement of a property-specific power of eminent domain.” (J-69A&B-2021, at 22)

“The order of the Commonwealth Court is vacated, and the matter is remanded for further proceedings consistent with this opinion.” (J-69A&B-2021, at 25)

FACTUAL BACKGROUND

UGI Storage sought and obtained Federal Energy Regulatory Commission certification to acquire and operate the Meeker underground natural-gas storage field in Tioga County. FERC declined to certify the entire proposed 2,980-acre buffer zone because UGI had not provided required notice to affected landowners and lacked identified property rights in portions of the proposed zone. The appellants alleged that UGI nevertheless treated the entire proposed buffer zone as a no-drilling, no-fracking area, substantially impairing the value and use of

their oil, gas, and mineral rights. UGI had not acquired rights in the appellants' properties or obtained property-specific federal condemnation authority over them.

PROCEDURAL HISTORY

The landowners petitioned for appointment of boards of viewers under 26 Pa.C.S. § 502(c), alleging that UGI's proposed and operational use of a natural-gas storage-field buffer zone effectively deprived them of the use and value of their oil, gas, and mineral rights. The Tioga County Court of Common Pleas sustained UGI's preliminary objections and dismissed the petitions, concluding that UGI lacked property-specific eminent-domain authority and, alternatively, that the record did not substantiate a taking. The Commonwealth Court initially remanded for further proceedings, but after remand the common pleas court again dismissed the petitions, and the Commonwealth Court affirmed en banc. The Supreme Court of Pennsylvania vacated the Commonwealth Court's order and remanded for consideration of the alternative evidentiary-hearing issue.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Remand to the Commonwealth Court for further proceedings consistent with the opinion, including consideration of the common pleas court's alternative disposition concerning the landowners' purported off-the-record waiver of, or failure to establish entitlement to, an evidentiary hearing.

CASES CITED

- Chicago B. & Q. Ry. Co. v. Illinois, 200 U.S. 561 (1906)
- Dow v. Beidelman, 125 U.S. 680 (1888)
- Penn Central Transportation Co. v. City of New York, 438 U.S. 104 (1978)
- McElwee v. SEPTA, 948 A.2d 762 (Pa. 2008)
- Briggs v. SW Energy Production Co., 224 A.3d 334 (Pa. 2020)
- Genter v. Blair County Convention & Sports Facilities Authority, 805 A.2d 51 (Pa. Cmwlth. 2002)
- In re Condemnation by PennDOT, of Right-of-Way for State Route 0079, 805 A.2d 59 (Pa. Cmwlth. 2002)
- Columbia Gas Transmission Corp. v. An Exclusive Gas Storage Easement, 776 F.2d 125 (6th Cir. 1985)
- Fountain v. Metropolitan Atlanta Rapid Transit Authority, 678 F.2d 1038 (11th Cir. 1982)
- Nollan v. California Coastal Commission, 483 U.S. 825 (1987)
- PennEast Pipeline Co. v. New Jersey, 141 S. Ct. 2244 (2021)

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