

SUPREME COURT OF ARKANSAS

Gardner v. Bullard

241 Ark. 75 (1966) · Decided September 26, 1966

SUMMARY

The Arkansas Supreme Court affirmed a chancery court decree approving a drainage district's proposed contract and improvements. The court held that spouses who owned land as tenants by the entirety were separate holders of title for purposes of determining whether a majority of landowners opposed the proposal, and that a husband's signature and testimony could not establish his wife's opposition when she had not signed or been identified in the petition. The court also upheld the exclusion of additional petitions filed after the court-authorized filing date.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Ed. F. McFaddin
JURISDICTION	Arkansas
DECIDED	September 26, 1966
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a decree of the Woodruff County Chancery Court approving the master's report and granting a drainage district's petition to borrow money from a federal agency and ratify the related contract.
STANDARD OF REVIEW	The Supreme Court reviewed the chancery court's ruling and the application of the governing statute to the objectors' petitions and evidence.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential
PARTIES	Gardner v. Bullard

TOPICS

- real estate
- statutory interpretation
- evidence
- civil procedure

PRACTICE AREAS

- Real estate law
- Drainage and improvement districts
- Statutory interpretation
- Civil procedure
- Evidence

QUESTIONS PRESENTED

1. Whether owners of land held by the entirety could be counted as valid objectors when only the husband signed the opposition petition.
2. Whether a husband could use oral testimony to establish that his wife agreed with his opposition when the wife's name was not signed or otherwise shown on the petition.
3. Whether additional opposition petitions filed after the date authorized by the chancery court could be considered.

HOLDINGS

1. A spouse who owns an interest in an estate by the entirety is a holder of part of the title, and the other spouse's signature is essential to make that spouse a valid objector unless the signing spouse's authority to sign for the other is shown on the petition.
2. Oral testimony cannot establish ratification or joinder when the petition contains no signature, name, or other indication that the wife was an owner or joined in the opposition.
3. The master and chancery court properly refused to consider additional opposition petitions filed after March 20, 1962, because the master's authority was limited to the petitions filed by that date.

KEY QUOTATIONS

“It must be borne in mind that before the objectors can prevail against the finding of the Chancery Court in favor of the contract recommended by the Board, the objectors have to establish (1) that they constitute a majority in number of the holders of title to the lands within the District, and also (2) that they constitute a majority in value of the lands in the District.” (241 Ark. 75)

“Here the owners of the property could not ratify the signing of their names because their names were not signed and there could be no ratification of a thing which had never been done.” (241 Ark. 75)

FACTUAL BACKGROUND

The Woodruff-Prairie Drainage District was organized in 1959 and in January 1962 sought authority to borrow money from a federal agency under Ark. Stat. Ann. § 21-914. Notice was published for a hearing, and objectors filed counterpetitions on March 20, 1962. Twenty tracts were held by husbands and wives as tenants by the entirety, but only the husbands signed the opposition petitions; the objectors also attempted to submit an additional petition after March 20, 1962. The master and chancery court concluded that the objectors had not established a majority in number of the holders of title, and the Supreme Court affirmed.

PROCEDURAL HISTORY

The Woodruff-Prairie Drainage District petitioned the Woodruff County Chancery Court for authority to borrow money from a federal agency and for ratification and approval of its contract. Landowners filed counterpetitions opposing the proposal. After hearing evidence through a master, the chancery court approved the master's report and granted the district's petition. The objectors appealed, arguing that their petitions and testimony were improperly rejected and that husbands of tenants by the entirety should have been permitted to establish their wives' opposition.

DISPOSITION

affirmed

CASES CITED

- Branch v. Polk, 61 Ark. 388, 33 S.W. 424
- Western Assurance Co. v. White, 171 Ark. 733, 286 S.W. 804
- Pope v. McBride, 207 Ark. 940, 184 S.W. 2d 259
- Ahern v. Board, 69 Ark. 68, 61 S.W. 575
- Earl v. Board, 70 Ark. 211, 67 S.W. 312
- Board v. Offenhauser, 84 Ark. 257, 105 S.W. 265
- Colquitt v. Stevens, 111 Ark. 314, 163 S.W. 1141
- City of Malvern v. Nunn, 127 Ark. 418, 192 S.W. 909
- Johnson v. Norsworthy, 239 Ark. 545, 390 S.W. 2d 439