

SUPREME COURT OF NEVADA

V & S Railway, LLC v. White Pine County and City of Ely, 125 Nev. 233

211 P.3d 879 (2009) · No. No. 49351 · Decided July 16, 2009

SUMMARY

The Supreme Court of Nevada considered whether NRS 334.030 suspended a private railway company's statutory authority to condemn surplus governmental railroad property under NRS 37.230. The court held that NRS 334.030 is triggered when governmental entities take steps demonstrating their intent to contract for the purchase and sale of surplus property, not merely when the property is designated as surplus. It reversed and remanded for the district court to determine whether the governmental entities had taken the necessary steps before the condemnation action was filed.

CASE DETAILS

COURT	Supreme Court of Nevada
WRITING FOR THE COURT	Saitta, J.; Hardesty, C.J.; Parraguirre, J.; Douglas, J.; Cherry, J.; Gibbons, J.
JURISDICTION	Nevada
DECIDED	July 16, 2009
DOCKET	No. 49351
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from an order granting respondents' motion for summary judgment in a condemnation action.
STANDARD OF REVIEW	Summary judgment and statutory-construction issues are reviewed de novo. The factual basis for summary judgment is construed in favor of the nonmoving party.
PRECEDENTIAL VALUE	Published Nevada Supreme Court opinion; binding precedent in Nevada.
PARTIES	V & S Railway, LLC, f/k/a V and S Railway, Inc. v. White Pine County, City of Ely

TOPICS

[statutory interpretation](#)[legislative intent](#)[summary judgment](#)[municipal law](#)[remedies](#)

PRACTICE AREAS

statutory interpretation

municipal law

eminent domain

QUESTIONS PRESENTED

1. Whether NRS 334.030 is triggered merely when a governmental entity designates property as surplus.
2. Whether NRS 334.030(5) suspends a private railroad company's condemnation action under NRS 37.230 once two governmental entities have taken steps demonstrating their intent to contract for the purchase and sale of surplus property.
3. Whether summary judgment was proper when the district court had not determined whether LADWP and Ely had taken sufficient steps toward contract formation before V & S Railway filed its condemnation action.

HOLDINGS

1. NRS 334.030 is not triggered merely by a governmental entity's designation of property as surplus. It is triggered when two governmental entities take steps demonstrating their intent to enter into a contract for the purchase and sale of surplus governmental property.
2. Once two governmental entities have taken steps demonstrating their intent to enter into a contract for the sale and purchase of surplus governmental property, NRS 334.030(5) suspends a private entity's inconsistent condemnation action under NRS 37.230.
3. Summary judgment was improperly granted because the district court applied the wrong legal trigger and failed to determine whether LADWP and Ely had taken the necessary steps toward contract formation before V & S Railway filed its condemnation action.

KEY QUOTATIONS

“Based upon the plain meaning of NRS 334.030, we conclude that condemnation actions like V & S Railway's are suspended pursuant to NRS 334.030(5) once two governmental entities take steps demonstrating their intent to enter into a contract for the purchase and sale of surplus governmental property.” (211 P.3d at 884)

“NRS 334.030 does not give governmental entities a priority right to acquire surplus governmental property absent prior evidence indicating their intent to enter into a contract for the purchase of such property.” (211 P.3d at 884)

FACTUAL BACKGROUND

The Los Angeles Department of Water and Power owned a railroad that it designated as surplus property. The City of Ely offered to purchase the railroad, sent or placed \$250,000 in escrow, and engaged in negotiations with LADWP. Nearly simultaneously, V & S Railway, a private railroad company, filed a condemnation action under NRS 37.230 to acquire the railroad. The district court held that the surplus-property statute barred the condemnation action based solely on LADWP's designation of the railroad as surplus.

PROCEDURAL HISTORY

V & S Railway brought a condemnation action under NRS 37.230 seeking to acquire surplus railroad property owned by the Los Angeles Department of Water and Power. White Pine County and the City of Ely intervened and moved for summary judgment, arguing that NRS 334.030(5) suspended V & S Railway's condemnation right. The district court granted summary judgment after finding that the statute was triggered when the property was designated surplus. The Nevada Supreme Court reversed and remanded for determination of whether the governmental entities had taken steps demonstrating an intent to enter into a purchase-and-sale contract when the condemnation action was filed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must determine whether LADWP and Ely had taken steps demonstrating their intent to enter into a contract for the purchase and sale of the railroad when V & S Railway filed its condemnation action. If the statutory trigger had occurred, the court should again conclude that NRS 334.030(5) barred the condemnation action. If it had not occurred, the court must reverse the summary judgment and permit V & S Railway to pursue its condemnation action against LADWP.

CASES CITED

- Wood v. Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005)
- Harris Assocs. v. Clark County Sch. Dist., 119 Nev. 638, 641-642, 81 P.3d 532, 534 (2003)
- McKay v. Bd. of Supervisors, 102 Nev. 644, 648, 730 P.2d 438, 441 (1986)
- Coast Hotels v. State, Labor Comm'n, 117 Nev. 835, 841, 34 P.3d 546, 550 (2001)

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