

SUPREME COURT OF COLORADO

Arvada Urban Renewal Authority v. Columbine Professional Plaza Ass'n

85 P.3d 1066 (Colo. 2004) · No. 03SA329 · Decided March 1, 2004

SUMMARY

The Supreme Court of Colorado held that an urban renewal authority could not condemn a portion of a parcel that had been sold, developed under an urban renewal plan, and formally released after the original blight determination. Once blight has been cured or eliminated, the authority lacks statutory condemnation power over the parcel absent a renewed finding that the area is currently blighted. The court reversed and remanded with directions to dismiss the condemnation action.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Bender
JURISDICTION	Colorado
DECIDED	March 1, 2004
DOCKET	03SA329
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Original proceeding under Colorado Rule 21 challenging the trial court's refusal to dismiss an urban renewal authority's condemnation action and its award of immediate-possession damages.
STANDARD OF REVIEW	De novo review applies to the trial court's interpretation of Colorado statutes and case law.
PRECEDENTIAL VALUE	Published en banc opinion; binding precedent in Colorado.
PARTIES	Arvada Urban Renewal Authority v. Columbine Professional Plaza Association, Inc., Columbine West Medical Office Building, Ltd., RLLLP, Lake at CPP, LLC, Lake Front, LLC, Parker Ojala, LLC, Public Service Company of Colorado, Swinerton Real Estate, Inc., W.S.A. Life, a/k/a W.S.A. Fraternal Life, Mark Paschall, in his official capacity as Treasurer of Jefferson County

TOPICS

eminent domain municipal

municipal law

real estate

statutory interpretation

remedies

PRACTICE AREAS

eminent domain

municipal law

urban renewal

real estate

statutory interpretation

QUESTIONS PRESENTED

1. Whether subsequent private development and AURA's certificates of completion and release cured or eliminated the 1981 blight finding as to the quarry lake parcel and the Arvada Marketplace parcel.
2. Whether AURA retained statutory condemnation authority over the quarry lake parcel under the existing urban renewal plan after the parcel and the marketplace parcel had been redeveloped and were no longer subject to the original blight finding.
3. Whether a renewed municipal finding of current blight was required before AURA could condemn the lake parcel.

HOLDINGS

1. The quarry lake parcel was no longer subject to the 1981 blight determination because AURA disposed of the property through the statutory redevelopment process, certified that its use conformed to the urban renewal plan, and released its right of re-entry.
2. An urban renewal authority may not exercise its condemnation power over or for the benefit of a parcel from which blight has been eliminated unless the municipality makes a renewed finding that the area to be condemned, in its current condition, is blighted.

KEY QUOTATIONS

"We hold that once a parcel within a redevelopment area has been sold, developed, and released in this manner, an urban renewal authority may not exercise its condemnation power over any part of that parcel absent renewed findings of blight by the appropriate authority." (85 P.3d at 1067)

"Once that purpose has been achieved, an authority may no longer rely on a municipality's initial blight determination to condemn property because it can no longer exercise its condemnation powers in furtherance of a valid public purpose." (85 P.3d at 1073)

FACTUAL BACKGROUND

The City of Arvada designated a 500-acre tract as blighted in 1981 and created AURA to oversee its redevelopment. AURA sold the quarry lake parcel and adjacent development parcels to private developers, approved development of the Arvada Marketplace and Columbine Professional Plaza, certified that the improvements conformed to the urban renewal plan, and released the properties from its right of re-entry. After an anchor store at the marketplace closed, AURA sought to condemn part of the lake parcel to facilitate a Wal-Mart project, even though the lake had been improved with paths, landscaping, picnic areas, and fountains.

PROCEDURAL HISTORY

AURA initiated a condemnation action to acquire part of the quarry lake parcel for the proposed expansion of the Arvada Marketplace and Wal-Mart development after the owners refused to sell. The trial court denied the landowners' motion to dismiss, found the lake parcel remained blighted, and awarded \$190,000 in damages based on harm to the adjacent office plaza. The Colorado Supreme Court issued a rule to show cause and stayed further proceedings, then reversed and remanded with directions to dismiss the condemnation action.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the trial court with directions to grant Columbine's motion to dismiss the condemnation action.

CASES CITED

- Simpson v. Bijou Irrigation Co., 69 P.3d 50, 58 (Colo. 2003)
- City and County of Denver v. Block 173 Assoc., 814 P.2d 824, 828 (Colo. 1991)
- Matter of Estate of Royal, 826 P.2d 1236, 1238 (Colo. 1992)
- Rabinoff v. District Court, 145 Colo. 225, 360 P.2d 114 (1961)
- Aposporos v. Urban Redevelopment Commission, 259 Conn. 563, 790 A.2d 1167, 1175-76 (2002)
- Thornton Dev. Auth. v. Upah, 640 F. Supp. 1071, 1081 (D. Colo. 1986)
- Berman v. Parker, 348 U.S. 26, 33-34 (1954)