

SUPREME COURT OF MISSISSIPPI

A-1 Pallet Co. v. City of Jackson

40 So. 3d 563 (Miss. 2010) · No. No. 2009-CA-00756-SCT · Decided August 5, 2010

SUMMARY

The Supreme Court of Mississippi affirmed the dismissal of A-1 Pallet Company's claims against the City of Jackson and the dissolution of a temporary restraining order concerning the City's proposed demolition of structures on A-1's property. The court held that there was no longer an immediate threat of harm supporting injunctive relief and that A-1 had an adequate remedy at law through an appeal under Mississippi Code section 11-51-75. Because there was no independent basis for chancery jurisdiction, the court also upheld dismissal of the related tort claims.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Presiding Justice Carlson; Carlson; Chandler; Dickinson; Graves; Kitchens; Lamar; Pierce; Randolph; Waller
JURISDICTION	Mississippi
DECIDED	August 5, 2010
DOCKET	No. 2009-CA-00756-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	A-1 Pallet Company appealed from the Hinds County Chancery Court's order granting the City's motion to dismiss, dissolving the temporary restraining order, and denying permanent injunctive relief and damages claims.
STANDARD OF REVIEW	The Supreme Court will not disturb a chancellor's factual findings when supported by substantial evidence unless the chancellor abused discretion, was manifestly wrong, clearly erroneous, or applied an erroneous legal standard. The grant or denial of injunctive relief is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published, precedential Mississippi Supreme Court opinion decided en banc.
PARTIES	A-1 Pallet Company v. City of Jackson, Mississippi

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QUESTIONS PRESENTED

1. Whether the chancery court erred in dissolving the temporary restraining order and denying permanent injunctive relief.
2. Whether the chancery court had subject-matter jurisdiction over an appeal from the City Council's demolition decision.
3. Whether the chancery court could exercise pendant jurisdiction over A-1's tort claims.
4. Whether A-1's motion to amend should have been treated as an amendment of the pleadings and related back to the original filing.
5. Whether the City Council's decision was an absolute nullity and therefore not appealable to circuit court.

HOLDINGS

1. The chancery court did not abuse its discretion in dissolving the TRO because A-1 failed to present proof of an immediate or imminent threat of harm after the Historic Preservation Commission denied the City's demolition request and the City did not appeal.
2. The chancery court did not abuse its discretion in denying permanent injunctive relief because A-1 failed to establish an imminent threat of irreparable harm for which it lacked an adequate remedy at law.
3. The circuit court, not the chancery court, had exclusive subject-matter jurisdiction over an appeal from the City Council's decision under Mississippi Code section 11-51-75.
4. Because there was no independent basis for equity jurisdiction, the chancery court properly declined to exercise pendant jurisdiction over A-1's tort and damages claims.
5. A-1 was procedurally barred from arguing for the first time on appeal that the City Council's decision was an absolute nullity and therefore not appealable.

KEY QUOTATIONS

"Because there was no longer an immediate threat of injury, as contemplated by Mississippi Rule of Civil Procedure 65(b), there was no longer a need for the TRO or an injunction to remain in effect." (40 So. 3d at 568)

"Moreover, for a permanent injunction to issue, the above-mentioned factors are weighed in light of all proffered evidence and following a full hearing on the merits of the claim." (40 So. 3d at 569)

"As there was no abuse of discretion by the chancellor in denying A-1's underlying claim for equitable relief, it follows that the chancery court was unable to exercise pendant jurisdiction over the tort claims." (40 So. 3d at 570)

FACTUAL BACKGROUND

A-1 Pallet Company operated a wooden-pallet recycling and mulch business on property in Jackson. The City notified A-1 of a show-cause hearing concerning cleanup and possible demolition of structures that the City deemed a threat to public health and safety; the hearing proceeded after the City denied A-1's request for a continuance so counsel could attend. A-1 obtained a TRO after the City Council adopted a demolition resolution, but the Jackson Historic Preservation Commission later denied the City's request for a certificate of appropriateness, and the City did not appeal that denial. A-1 nevertheless sought permanent injunctive relief and damages, asserting a continuing threat of demolition.

PROCEDURAL HISTORY

The City of Jackson initiated proceedings to clean up or demolish structures on A-1's property. A-1 obtained a temporary restraining order in chancery court, later extended by agreement, and separately filed a bill of exceptions in circuit court challenging the City Council's action. The Jackson Historic Preservation Commission later denied the City's request to demolish the structures, and the City did not appeal. The chancery court concluded that it lacked subject-matter jurisdiction over the municipal appeal and tort claims, that A-1 had failed to obtain leave to amend, and that no continuing threat justified injunctive relief; it dismissed the claims and dissolved the TRO. The Mississippi Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Corp. Mgmt., Inc. v. Greene County, 23 So. 3d 454, 459 (Miss. 2009)
- Biglane v. Under The Hill Corp., 949 So. 2d 9, 13-14 (Miss. 2007)
- Moore v. Sanders, 558 So. 2d 1383, 1385 (Miss. 1990)
- Sierra Club v. Bergland, 451 F. Supp. 120 (N.D. Miss. 1978)
- City of Durant v. Humphreys County Mem'l Hosp./Extended Care Facility, 587 So. 2d 244, 250 (Miss. 1991)
- Ruff v. Estate of Ruff, 989 So. 2d 366, 369-370 (Miss. 2008)
- Punzo v. Jackson County, 861 So. 2d 340, 347 (Miss. 2003)
- Reynolds v. Amerada Hess Corp., 778 So. 2d 759, 765 (Miss. 2000)
- Moore v. Sanders, 558 So. 2d 1383, 1385 (Miss. 1990)
- Hood v. Perry County, 821 So. 2d 900, 902 (Miss. Ct. App. 2002)
- Biloxi-Pascagoula Real Estate Bd. v. Miss. Reg'l Hous. Auth. No. VIII, 231 Miss. 89, 98-99, 94 So. 2d 793, 796-97 (1957)
- Brown v. Miss. Dep't of Emp't Sec., 29 So. 3d 766, 771 (Miss. 2010)
- Issaquena Warren Counties Land Co., LLC v. Warren County, 996 So. 2d 747, 751 (Miss. 2008)
- Tillotson v. Anders, 551 So. 2d 212, 213 (Miss. 1989)
- Tideway Oil Programs, Inc. v. Serio, 431 So. 2d 454, 464 (Miss. 1983)

- **Burnett v. Bass**, 152 Miss. 517, 521, 120 So. 456 (1929)

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