

SUPREME COURT OF TEXAS

J. Hiram Moore, Ltd. v. Mary Greer

J. Hiram Moore · No. 02-0455 · Decided December 31, 2004

SUMMARY

This document is a dissenting opinion in a Texas Supreme Court case concerning the construction of a royalty deed. The dissent argues that the deed unambiguously conveyed all of the grantor’s royalty and overriding royalty interests in Wharton County, despite an inaccurate specific property description, and criticizes the Court for treating the deed as ambiguous.

CASE DETAILS

COURT	Supreme Court of Texas
WRITING FOR THE COURT	Priscilla R. Owen; Justice Medina
JURISDICTION	Texas
DECIDED	December 31, 2004
DOCKET	02-0455
DISPOSITION	other
PROCEDURAL POSTURE	Petition for review from the Court of Appeals for the Thirteenth District of Texas; the opinion text is a dissent from the Texas Supreme Court’s disposition concerning the construction of a royalty deed.
STANDARD OF REVIEW	De novo construction of an unambiguous deed as a matter of law.
PRECEDENTIAL VALUE	Dissenting opinion; nonbinding
PARTIES	J. Hiram Moore, Ltd. v. Mary Greer

TOPICS

- minerals
- oil and gas
- deeds
- title disputes
- real estate

PRACTICE AREAS

- Real estate law
- Oil and gas law
- Mineral rights
- Deed construction

QUESTIONS PRESENTED

1. Whether the royalty deed's specific and general granting clauses are ambiguous when the grantor does not own the interest identified in the specific description.
2. Whether the deed's general geographic grant should be enforced to convey all of the grantor's royalty interests in Wharton County.
3. Whether *Smith v. Allison* controls when the specific and general grants concern estates of the same character.

KEY QUOTATIONS

“Because the Court does not give effect to a direct, unambiguous grant, I dissent.”

“There is no occasion to determine which shall prevail, the particular or the general description, unless there is a conflict or repugnance.”

FACTUAL BACKGROUND

The disputed royalty deed specifically described a section of the AB 801 Survey and purported to convey royalty interests in that property. The deed also contained a broad geographic grant conveying all of the grantor's royalty and overriding royalty interests in oil, gas, and other minerals in Wharton County, whether or not properly described. Greer did not own the royalty interest covered by the specific description, but she did own royalty interests in Wharton County that fell within the general grant.

PROCEDURAL HISTORY

The case reached the Supreme Court of Texas on petition for review from the Thirteenth Court of Appeals. The dissent criticizes the Court's conclusion that the deed was ambiguous because a specific grant failed while a general geographic grant purported to convey all of Greer's royalty interests in Wharton County.

DISPOSITION

other

CASES CITED

- *Smith v. Westall*, 13 S.W. 540 (Tex. 1890)
- *Wit v. Harlan*, 2 S.W. 41 (Tex. 1886)
- *Holloway's Unknown Heirs v. Whatley*, 131 S.W.2d 89 (Tex. 1939)
- *Sun Oil Co. v. Burns*, 84 S.W.2d 442 (Tex. 1935)
- *Tex. Consol. Oils v. Bartels*, 270 S.W.2d 708 (Tex. Civ. App.—Eastland 1954, writ ref'd)
- *Smith v. Allison*, 301 S.W.2d 608 (Tex. 1957)
- *Lauchheimer v. Saunders*, 65 S.W. 500 (Tex. Civ. App. 1901, no writ)
- *Sun Oil Co. v. Bennett*, 84 S.W.2d 447 (Tex. 1935)
- *Gulf Production Co. v. Spear*, 84 S.W.2d 452 (Tex. 1935)
- *Jones v. Colle*, 727 S.W.2d 262 (Tex. 1987)

- Texas Co. v. Daugherty

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