

SUPREME COURT OF MISSISSIPPI

Croke v. Southgate Sewer Dist.

857 So. 2d 774 (Miss. 2003) · No. No. 2002-CA-00046-SCT · Decided October 23, 2003

SUMMARY

The Mississippi Supreme Court affirmed summary judgment requiring Douglas Croke to connect his mobile home park to the Southgate Sewer District system and to pay assessed sewer-related damages. The court held that an oral hearing was not required because the issues were thoroughly presented in the briefs, that no genuine issue of material fact existed, and that mandatory connection did not constitute an uncompensated taking. The court also affirmed the damages award and rejected the sewer district's cross-appeal concerning enforcement of the judgment.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Smith, Presiding Justice; Pittman, Chief Justice; Waller, Justice; Cobb, Justice; Carlson, Justice; Graves, Justice; McRae, Presiding Justice; Diaz, Justice; Easley, Justice
JURISDICTION	Mississippi
DECIDED	October 23, 2003
DOCKET	No. 2002-CA-00046-SCT
DISPOSITION	affirmed
PROCEDURAL POSTURE	Croke appealed the Lowndes County Chancery Court's grant of summary judgment, injunction-related relief, and damages in favor of Southgate Sewer District. Southgate Sewer District filed a cross-appeal concerning enforcement and finality of the judgment.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The appellate court considers the evidentiary materials in the light most favorable to the nonmoving party and reverses only if a genuine issue of material fact exists.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court en banc opinion; precedential.
PARTIES	Douglas Croke d/b/a Airbase Mobile Home Park v. Southgate Sewer District

TOPICS

summary judgment

civil procedure

standard of review

appellate procedure

municipal law

PRACTICE AREAS

Civil procedure

Appellate procedure

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Remedies

QUESTIONS PRESENTED

1. Whether the trial court erred by granting summary judgment without an oral hearing.
2. Whether genuine issues of material fact concerning takings, equal protection, unclean hands, or alleged violations of real-property-acquisition law precluded summary judgment.
3. Whether the trial court erred in awarding damages to Southgate Sewer District for Croke's failure to connect and pay required charges.
4. Whether the trial court erred by refusing to enforce the summary-judgment order as a final order and whether Croke's appeal was timely.

HOLDINGS

1. The trial court did not commit reversible error by granting summary judgment without an oral hearing because the issues had been thoroughly presented in the parties' briefs and papers.
2. Summary judgment for Southgate Sewer District was proper because no genuine issue of material fact existed and the applicable sewer statutes and ordinances had already been upheld as valid.
3. The trial court properly awarded Southgate Sewer District damages representing charges Croke would have paid had he complied with the mandatory connection ordinance, including use payments accruing after November 2, 2000.
4. Croke's appeal was timely because the November 2, 2000 summary-judgment order was only a partial order; the final order was entered later, and the trial court did not err in refusing the District's requested enforcement treatment.

KEY QUOTATIONS

“Given our holding in Adams, we find no reversible error here by the chancellor in granting summary judgment without an oral hearing when the issues have been thoroughly presented in the briefs.” (778)

“Forcing Croke to connect to the system does not constitute a taking.” (780)

“We affirm the trial court's judgment.” (782)

FACTUAL BACKGROUND

Southgate Sewer District constructed a public sewer collection system bordering Croke's property and adopted ordinances requiring qualifying property owners to connect to the system. Croke refused to grant an easement that would have allowed the District to enter his property and provide a cost-free connection, and he did not connect to the system. The District sued for a mandatory injunction and damages representing charges Croke would have paid had he complied with the ordinance. Croke asserted that the required connection constituted a

taking, violated equal protection, involved unclean hands, and violated Mississippi's real-property-acquisition statutes.

PROCEDURAL HISTORY

Southgate Sewer District sued Croke in the Chancery Court of Lowndes County for a mandatory injunction requiring connection to the public sewer system and for damages. The chancellor granted summary judgment to the District, later awarded \$45,141.20 in damages, and reduced the award by remittitur to \$27,084.72. Croke appealed, and the District cross-appealed. The Mississippi Supreme Court affirmed on both the direct appeal and cross-appeal.

DISPOSITION

affirmed

CASES CITED

- Croke v. Lowndes County Bd. of Supervisors, 733 So. 2d 837 (Miss. 1999)
- Hancock v. Mid Am. Servs. Inc., 836 So. 2d 762 (Miss. 2003)
- Short v. Columbus Rubber & Gasket Co., 535 So. 2d 61 (Miss. 1988)
- Adams v. Cinemark USA, Inc., 831 So. 2d 1156 (Miss. 2002)
- Wallace v. Town of Raleigh, 815 So. 2d 1203 (Miss. 2002)
- Armistead v. Minor, 815 So. 2d 1189 (Miss. 2002)
- Hudson v. Courtesy Motors, Inc., 794 So. 2d 999 (Miss. 2001)
- Robinson v. Cobb, 763 So. 2d 883 (Miss. 2000)
- Powell v. City of Pascagoula, 752 So. 2d 999 (Miss. 1999)
- Prescott v. Leaf River Prods., Inc., 740 So. 2d 301 (Miss. 1999)
- Lepre v. D'Iberville Water & Sewer Dist., 376 So. 2d 191 (Miss. 1979)
- Commonwealth ex rel. State Water Control Bd. v. County Utilities Corp., 223 Va. 534, 290 S.E.2d 867 (1982)
- Kingmill Valley Pub. Serv. Dist. v. Riverview Estates Mobile Home Park, Inc., 182 W. Va. 116, 386 S.E.2d 483 (1989)
- State, Northern Tp. v. Waughtral, 1993 WL 328750 (Minn. Ct. App. 1993)