

SUPREME COURT OF ILLINOIS

Tuite v. Corbitt

224 Ill. 2d 490 (Ill. 2006) · No. 101054 · Decided December 21, 2006

SUMMARY

The Illinois Supreme Court considered whether statements in the book Double Deal were actionable as defamation per se and false light invasion of privacy. The court declined to abandon Illinois’s innocent construction rule but held that the lower courts improperly applied it in dismissing Tuite’s claims. The court reversed the appellate and circuit court judgments and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Justice Kilbride; Justice Fitzgerald; Justice Garman; Justice Karmeier; Justice Freeman; Chief Justice Thomas; Justice Burke
JURISDICTION	Illinois
DECIDED	December 21, 2006
DOCKET	101054
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from dismissal under section 2-615 of the Illinois Code of Civil Procedure of claims for defamation per se, false light invasion of privacy, and intentional infliction of emotional distress.
STANDARD OF REVIEW	De novo review of the legal determination whether allegedly defamatory statements are capable of a reasonable innocent construction; section 2-615 dismissal tests the legal sufficiency of the complaint.
PRECEDENTIAL VALUE	binding
PARTIES	Patrick A. Tuite v. Michael Corbitt, Sam Giancana, HarperCollins Publishers

TOPICS

- defamation
- invasion of privacy
- motions to dismiss
- appellate procedure
- first amendment

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Illinois should abandon the innocent construction rule for defamation per se claims.
2. Whether the challenged statements, read in the context of Double Deal as a whole, were reasonably capable of an innocent construction.
3. Whether reversal of the dismissal of the defamation per se claim required reversal of the dismissal of the false light invasion of privacy claim.

HOLDINGS

1. The Illinois Supreme Court declined to abandon the innocent construction rule. The rule remains applicable to defamation per se claims because a statement falling within a per se category is not actionable if it is reasonably capable of an innocent construction.
2. The statements were not reasonably capable of an innocent construction. Read in the context of the book's pervasive focus on organized crime and corruption, they would most likely be understood as implying that Tuite accepted illegally obtained money and was expected to use bribery or payoffs to secure acquittals.
3. The dismissal of the false light invasion of privacy claim was also reversed because it was based on the allegedly defamatory per se nature of the statements, and the defamation per se dismissal was erroneous.

KEY QUOTATIONS

"In sum, this court has held that the innocent construction rule advances the constitutional interests of free speech and free press and encourages the robust discussion of daily affairs." (-15-)

"We conclude that a defamatory construction of the disputed statements is far more reasonable than any innocent construction." (-18-)

"A reasonable reader would likely conclude that the delivery of \$1 million in cash in illegally obtained funds was not solely for legitimate legal fees, but was, at least in part, to be used for bribes and payoffs to ensure the acquittals." (-18-)

FACTUAL BACKGROUND

Patrick A. Tuite, an attorney, sued the authors and publisher of Double Deal over statements describing his alleged representation of organized-crime figure Joey Aiuppa, including an alleged \$1 million cash retainer and the implication that Tuite could secure an acquittal through bribery or corruption. Tuite alleged that he was only a consultant, did not receive the alleged cash, and did not engage in criminal conduct. He asserted defamation per se, false light invasion of privacy, and intentional infliction of emotional distress.

PROCEDURAL HISTORY

The circuit court of Cook County dismissed Tuite's amended complaint under section 2-615, holding that the challenged statements were capable of a reasonable innocent construction and that the complaint otherwise

failed to state claims for false light invasion of privacy and intentional infliction of emotional distress. The Illinois Appellate Court affirmed. The Illinois Supreme Court granted leave to appeal, declined to abandon the innocent construction rule, reversed the lower courts' dismissal of the defamation per se and false light claims, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the circuit court of Cook County for further proceedings consistent with the opinion, including proceedings on the reinstated defamation per se and false light invasion of privacy claims. The plaintiff did not challenge dismissal of the intentional infliction of emotional distress claim.

CASES CITED

- Solaia Technology, LLC v. Specialty Publishing Co., 221 Ill. 2d 558, 579-83 (2006)
- Kolegas v. Heftel Broadcasting Corp., 154 Ill. 2d 1, 10-11 (1992)
- Owen v. Carr, 113 Ill. 2d 273, 277 (1986)
- Bryson v. News America Publications, Inc., 174 Ill. 2d 77, 86, 90, 93-94, 99-103 (1996)
- John v. Tribune Co., 24 Ill. 2d 437, 442 (1962)
- Chapski v. Copley Press, 92 Ill. 2d 344, 347-52 (1982)
- Mittelman v. Witous, 135 Ill. 2d 220, 232-34, 247-48 (1989)
- People v. Sharpe, 216 Ill. 2d 481, 519-20 (2005)
- Vitro v. Mihelcic, 209 Ill. 2d 76, 81-82 (2004)
- People v. Jones, 207 Ill. 2d 122, 134 (2003)
- Milkovich v. Lorain Journal Co., 497 U.S. 1, 18-20 (1990)
- Gertz v. Robert Welch, Inc., 418 U.S. 323, 339-41 (1974)
- New York Times Co. v. Sullivan, 376 U.S. 254 (1964)
- Philadelphia Newspapers, Inc. v. Hepps, 475 U.S. 767, 776-77 (1986)
- Kuwik v. Starmark Star Marketing & Administration, Inc., 156 Ill. 2d 16, 24 (1993)
- City of Chicago v. Beretta U.S.A. Corp., 213 Ill. 2d 351, 364 (2004)
- Wakulich v. Mraz, 203 Ill. 2d 223, 228 (2003)
- Canel v. Topinka, 212 Ill. 2d 311, 318 (2004)
- Woods v. Cole, 181 Ill. 2d 512, 516 (1998)
- Lucas v. Lakin, 175 Ill. 2d 166, 171 (1997)
- Flip Side, Inc. v. Chicago Tribune Co., 206 Ill. App. 3d 641, 651 (1990)
- Troman v. Wood, 62 Ill. 2d 184, 189 (1975)

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