

NEBRASKA SUPREME COURT

Sanitary Improvement District No. 2 of Knox County, Nebraska, et al. v. Joann Fischer et al.

308 Neb. 791 (2021) · No. No. S-19-1193 · Decided April 2, 2021

SUMMARY

The Nebraska Supreme Court held that all property owners within Sanitary Improvement District No. 2 of Knox County were indispensable parties to a declaratory judgment action concerning the interpretation and application of Nebraska Revised Statutes § 31-735(2)(b), which governs trustee elections. Because indispensable parties had not been joined, the district court lacked jurisdiction. The court vacated the judgment and remanded with directions to dismiss the action without prejudice.

CASE DETAILS

COURT	Nebraska Supreme Court
WRITING FOR THE COURT	Stacy, J.; Heavican, C.J.; Miller-Lerman, J.; Cassel, J.; Funke, J.; Papik, J.; Freudenberg, J.
JURISDICTION	Nebraska
DECIDED	April 2, 2021
DOCKET	No. S-19-1193
DISPOSITION	vacated
PROCEDURAL POSTURE	Appeal from a declaratory judgment entered after trial in the Knox County District Court concerning the interpretation and application of Nebraska Revised Statute § 31-735(2)(b) to the election of sanitary improvement district trustees.
STANDARD OF REVIEW	A jurisdictional issue that does not involve a factual dispute is reviewed as a matter of law, with the appellate court reaching an independent conclusion.
PRECEDENTIAL VALUE	Published Nebraska Supreme Court opinion; precedential.
PARTIES	Joann Fischer, Coburn Construction, L.L.C., et al. v. Sanitary Improvement District No. 2 of Knox County, Nebraska, et al.

TOPICS

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QUESTIONS PRESENTED

1. Whether the district court had jurisdiction to issue a declaratory judgment when numerous property owners whose voting rights would be affected had not been joined.
2. Whether all property owners within the sanitary improvement district were indispensable parties to the declaratory judgment action.

HOLDINGS

1. All property owners within the sanitary improvement district were indispensable parties because the requested declaration concerning trustee-election procedures would necessarily affect each owner's voting rights and legal interests.
2. When indispensable parties have not been joined in a declaratory judgment action, the defect is jurisdictional, cannot be waived, and the district court lacks jurisdiction to determine the controversy.

KEY QUOTATIONS

“The rule in a declaratory judgment action, restated using the statutory language, is that all who have or claim any interest which would be affected by the declaration sought are indispensable parties, and when all such parties have not been joined, the district court has no jurisdiction to determine the controversy.” (798)

“Because the presence of all indispensable parties is jurisdictional in a declaratory judgment action and cannot be waived by the parties, the district court had no jurisdiction to determine the controversy.” (800)

FACTUAL BACKGROUND

Sanitary Improvement District No. 2 of Knox County contains approximately 2,470 platted lots, several hundred landowners, and both platted and unplatted areas. The election commissioner determined that more than 90 percent of the district's area consisted of vacant lots and notified the board that all five trustee positions would be elected by all property owners rather than three by resident property owners and two by all property owners. The district and three resident-owner trustees sought a declaration that the statutory 90-percent condition was not met because restrictive covenants limited many platted lots to residential uses. The district court adopted that position, but the Nebraska Supreme Court concluded that all property owners were indispensable parties because the requested declaration would affect their voting rights.

PROCEDURAL HISTORY

Three trustees and the sanitary improvement district brought a declaratory judgment action against the Knox County election commissioner and three corporate property owners. The district court ruled for the plaintiffs, concluding that less than 90 percent of the district's area was owned for other than residential uses and directing that three trustee positions be elected by resident property owners and two by all property owners. The defendants appealed, and the Nebraska Supreme Court moved the case to its docket, vacated the judgment for

lack of jurisdiction, and remanded with directions to dismiss without prejudice because numerous property owners had not been joined.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Vacate the district court's declaratory judgment and remand with directions to dismiss the cause without prejudice for failure to join indispensable parties.

CASES CITED

- Sandoval v. Ricketts, 302 Neb. 138, 922 N.W.2d 222 (2019)
- Dunn v. Daub, 259 Neb. 559, 611 N.W.2d 97 (2000)
- Taylor Oil Co. v. Retikis, 254 Neb. 275, 575 N.W.2d 870 (1998)
- Krohn v. Gardner, 238 Neb. 460, 471 N.W.2d 391 (1991)
- Concerned Citizens v. Department of Environmental Control, 244 Neb. 152, 505 N.W.2d 654 (1993)
- SID No. 57 v. City of Elkhorn, 248 Neb. 486, 536 N.W.2d 56 (1995)
- Adam v. City of Hastings, 267 Neb. 641, 676 N.W.2d 710 (2004)
- Carlson v. Allianz Versicherungs-AG, 287 Neb. 628, 844 N.W.2d 264 (2014)
- Shepoka v. Knopik, 197 Neb. 651, 250 N.W.2d 619 (1977)
- Redick v. Peony Park, 151 Neb. 442, 37 N.W.2d 801 (1949)
- Calabro v. City of Omaha, 247 Neb. 955, 531 N.W.2d 541 (1995)
- Hoiengs v. County of Adams, 245 Neb. 877, 516 N.W.2d 223 (1994)
- Jack's Cookie Corporation v. Giles County, 219 Tenn. 131, 407 S.W.2d 446 (1966)
- Lozoff v. Kaisershot, 11 Wis. 2d 485, 105 N.W.2d 783 (1960)

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