

SUPREME COURT OF INDIANA

Brownsburg Community School Corporation v. Natare Corporation

824 N.E.2d 336 (Ind. 2005) · No. 49S02-0409-CV-406 · Decided March 17, 2005

SUMMARY

The Indiana Supreme Court held that the Indiana Antitrust Act does not authorize civil treble damages against a governmental entity. The court reasoned that the Act's substantive prohibitions are criminal in nature and that governmental entities were not contemplated as perpetrators subject to the private treble-damages remedy. The court reversed the denial of Brownsburg Community School Corporation's motion for judgment on the pleadings.

CASE DETAILS

COURT	Supreme Court of Indiana
WRITING FOR THE COURT	Boehm, Justice; Shepard, Chief Justice; Dickson, Justice; Sullivan, Justice; Rucker, Justice
JURISDICTION	Indiana
DECIDED	March 17, 2005
DOCKET	49S02-0409-CV-406
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Interlocutory appeal from the denial of the School Corporation's motion for judgment on the pleadings under Indiana Trial Rule 12(C).
STANDARD OF REVIEW	De novo review of a motion for judgment on the pleadings under Indiana Trial Rule 12(C); well-pleaded facts are accepted as true and the ruling is based solely on the pleadings.
PRECEDENTIAL VALUE	Published state supreme court opinion; binding Indiana precedent.
PARTIES	Brownsburg Community School Corporation v. Natare Corporation

TOPICS

- statutory interpretation
- government contracts
- bid protests
- municipal law
- remedies

PRACTICE AREAS

- antitrust
- government contracts
- municipal law
- statutory interpretation
- remedies

QUESTIONS PRESENTED

1. Whether a governmental entity, specifically a school corporation, is subject to the Indiana Antitrust Act's civil treble-damages remedy for conduct allegedly violating the Act's criminal prohibitions against restraint of bidding.
2. Whether the School Corporation was entitled to judgment on the pleadings because the Indiana Antitrust Act did not contemplate governmental entities as defendants liable for treble damages.

HOLDINGS

1. The Indiana Antitrust Act does not create a civil treble-damages remedy against an arm of government. Although a governmental entity may qualify as a person entitled to sue when injured, it is not a potential treble-damages defendant under Section 7 absent clear legislative direction.
2. Municipal corporations are persons under the Indiana Antitrust Act and may sue under Section 7 if injured in their business or property, but their status as persons does not make them liable defendants for treble damages.

KEY QUOTATIONS

"We hold that the Indiana Antitrust Act does not create a civil treble damage remedy against an arm of government." (337)

"In sum, the issue in this case, whether a local or municipal government is susceptible to a claim for treble damages under Indiana Code section 24-1-2-7, is a matter of first impression." (341)

"For the reasons expressed below we believe neither the State nor any other governmental entity is subject to criminal provisions of Indiana statutes without the legislation making that result absolutely clear." (343)

"But it does not follow that they are also potential treble damage defendants." (345)

"For these reasons as well, we conclude that a governmental entity was not contemplated as a defendant under Section 7, and hold that the School Corporation cannot be held liable for treble damages." (346)

FACTUAL BACKGROUND

The School Corporation solicited bids for a Brownsburg High School project that included a swimming pool and movable bulkhead. Natore, a supplier of prefabricated pools, alleged that specifications supplied by the architect and pool consultant favored Myrtha products and that its proposed products were improperly rejected as not equal. Natore sued under the Indiana Antitrust Act and sought treble damages, costs, and attorney fees, alleging that the defendants conspired to exclude Natore from consideration.

PROCEDURAL HISTORY

Natore sued the Brownsburg Community School Corporation, the project architect, and the pool consultant, alleging that specifications for a school swimming-pool project unlawfully restrained competition under the Indiana Antitrust Act. The School Corporation moved for judgment on the pleadings, arguing that it was not subject to the Act's civil treble-damages remedy. The trial court denied the motion but certified the order for interlocutory appeal. The Indiana Court of Appeals affirmed, and the Indiana Supreme Court granted transfer.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded with direction to grant the School Corporation's motion for judgment on the pleadings.

CASES CITED

- *Brownsburg Cmty. Sch. Corp. v. Ntare Corp.*, 808 N.E.2d 148 (Ind. Ct. App. 2004)
- *Brownsburg Cmty. Sch. Corp. v. Ntare Corp.*, 822 N.E.2d 975 (Ind. 2004)
- *All-Star Constr. & Excavating, Inc. v. Bd. of Pub. Works*, 640 N.E.2d 369 (Ind. 1994)
- *Shook Heavy & Envtl. Constr. Group v. City of Kokomo*, 632 N.E.2d 355 (Ind. 1994)
- *City of Auburn v. Mavis*, 468 N.E.2d 584 (Ind. Ct. App. 1984)
- *State v. Ziliak*, 464 N.E.2d 929 (Ind. Ct. App. 1984)
- *Reed v. Carrigan*, 190 Ind. 29, 129 N.E. 8 (1920)
- *Schwimmer v. Sony Corp. Am.*, 677 F.2d 946 (2d Cir. 1982)
- *Univ. Life Ins. Co. v. Unimarc Ltd.*, 699 F.2d 846 (7th Cir. 1983)
- *Copperweld Corp. v. Independence Tube Corp.*, 467 U.S. 752 (1984)
- *Campbell v. State*, 259 Ind. 55, 284 N.E.2d 733 (1972)
- *Freel v. Sch. City of Crawfordsville*, 142 Ind. 27, 41 N.E. 312 (1895)
- *Cook v. Whitsell-Sherman*, 796 N.E.2d 271 (Ind. 2003)
- *Obremski v. Henderson*, 497 N.E.2d 909 (Ind. 1986)
- *State v. Carter*, 658 N.E.2d 618 (Ind. Ct. App. 1995)
- *City of Gary v. Falcone*, 169 Ind. App. 295, 348 N.E.2d 41 (1976)
- *City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247 (1981)
- *Chattanooga Foundry & Pipe Works v. City of Atlanta*, 203 U.S. 390 (1906)
- *Pfizer, Inc. v. Government of India*, 434 U.S. 308 (1978)
- *Georgia v. Pennsylvania R.R. Co.*, 324 U.S. 439 (1945)
- *City of Lafayette v. Louisiana Power & Light Co.*, 435 U.S. 389 (1978)
- *Parker v. Brown*, 317 U.S. 341 (1943)
- *Cmty. Communications Co. v. City of Boulder*, 455 U.S. 40 (1982)
- *Monsanto Co. v. Department of Public Utilities*, 412 Mass. 25, 586 N.E.2d 982 (Mass. 1992)
- *Fanelli v. City of Trenton*, 135 N.J. 582, 641 A.2d 541 (1994)
- *Fine Airport Parking, Inc. v. City of Tulsa*, 71 P.3d 5 (Okla. 2003)
- *Town of Hallie v. City of Chippewa Falls*, 105 Wis. 2d 533, 314 N.W.2d 321 (1982)
- *Neyens v. Roth*, 326 N.W.2d 294 (Iowa 1982)
- *Byre v. City of Chamberlain*, 362 N.W.2d 69 (S.D. 1985)

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