

SUPREME COURT OF GEORGIA

Koehler v. Massell, 229 Ga. 359

191 S.E.2d 830 (1972) · No. 27137 · Decided September 7, 1972

SUMMARY

The Supreme Court of Georgia held that a taxpayer's complaint sufficiently stated claims challenging Atlanta's practice of paying negligence claims arising from governmental functions as "moral obligations." The court concluded that such payments were generally unauthorized and that the taxpayer had standing to seek injunctive relief. It further held that individual municipal officers could be personally liable for legislative acts only upon proof of bad faith, malice, or fraud coupled with personal pecuniary gain, or certain statutory violations, and reversed dismissal of the complaint.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Hawes, Justice
JURISDICTION	Georgia
DECIDED	September 7, 1972
DOCKET	27137
DISPOSITION	reversed
PROCEDURAL POSTURE	A taxpayer and class representative appealed from the trial court's order sustaining the defendants' motion to dismiss for failure to state a claim and dismissing the claim for personal monetary liability against the defendants.
STANDARD OF REVIEW	Whether the complaint stated a claim for relief sufficient to withstand a motion to dismiss under the Georgia Civil Practice Act.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Georgia
PARTIES	Paul R. Koehler v. Sam Massell, Aldermen of the City of Atlanta

TOPICS

municipal law municipal liability motions to dismiss injunctions damages

PRACTICE AREAS

municipal law civil procedure governmental immunity municipal liability remedies

QUESTIONS PRESENTED

1. Whether the complaint stated a claim for injunctive and monetary relief against municipal officials based on the alleged illegal payment of claims barred by governmental immunity.
2. Whether a taxpayer had standing to seek an injunction against the alleged illegal municipal practice.
3. Whether the complaint stated a claim for personal damages against the mayor and aldermen for legislative acts allegedly resulting in the diversion of city funds.
4. What standard governs a motion to dismiss for failure to state a claim under the Georgia Civil Practice Act.

HOLDINGS

1. A complaint need not plead a cause of action in the technical sense to withstand a motion to dismiss; it is sufficient if, within the framework of the complaint, evidence could be introduced that would authorize some relief.
2. A municipality may not pay claims arising from the negligent performance of governmental functions when governmental immunity bars legal liability, except to the extent the legislature has delegated authority to waive immunity, including through the statutory motor-vehicle insurance and self-insurance provisions.
3. A city taxpayer has standing to seek an injunction against a municipality's illegal practice of appropriating public funds.
4. Municipal officers acting in a legislative capacity are not personally liable in damages for official legislative acts absent a showing of bad faith, malice, or fraud coupled with direct or indirect pecuniary gain, or a violation of the statutory prohibitions against bribery.

KEY QUOTATIONS

“a motion to dismiss for failure to state a claim should not be granted unless it appears to a certainty that the plaintiff would be entitled to no relief under any state of facts which could be proved in support of his claim.” (229 Ga. at 361)

“in the absence of a showing of bad faith, malice or fraud, coupled with a showing of direct or indirect pecuniary gain to the municipal officers accruing therefrom, or of a showing of the violation of the provisions of Code Ann. § 26-2304 (b) or of § 26-2305 (b) relating to the acceptance of bribes to influence official action, the mayor and board of aldermen would not be individually liable to respond in damages for legislative actions taken by them.” (229 Ga. at 365-366)

FACTUAL BACKGROUND

The plaintiff alleged that Atlanta's mayor and aldermen had adopted a practice of authorizing payments from city funds for claims arising from negligent performance of governmental functions, even though governmental immunity made those claims legally unenforceable. The defendants admitted that the board had approved such payments based on a claimed moral obligation and equitable duty, while denying that the individual officials

were personally liable. The plaintiff sought an injunction and recovery of the allegedly illegal expenditures for the benefit of the city and its taxpayers.

PROCEDURAL HISTORY

Koehler sued the mayor and aldermen of Atlanta seeking an injunction against the payment of municipal 'moral obligation' claims and damages for allegedly illegal expenditures. The trial court sustained the defendants' motion to dismiss both the complaint generally and the claim for individual liability. The Supreme Court of Georgia reversed, holding that the complaint stated claims sufficient to proceed to trial.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The claims were to proceed in the trial court, with the issue of whether the plaintiff could prove the facts necessary for personal damages left for determination by a jury under proper instructions.

CASES CITED

- Mitchell v. Dickey, 226 Ga. 218, 220, 173 S.E.2d 695
- Gill v. Myrick, 228 Ga. 253, 259, 185 S.E.2d 72
- Johnson v. Wormsloe Foundation, 228 Ga. 722, 725, 187 S.E.2d 682
- Crowder v. Department of State Parks, 228 Ga. 436, 185 S.E.2d 908
- Churchill v. Walker, 68 Ga. 681, 686
- City of Atlanta v. Gate City Gas Light Co., 71 Ga. 106, 124
- Hogg v. City of Rome, 189 Ga. 298, 303, 6 S.E.2d 48
- Collins v. Mayor &c. of Macon, 69 Ga. 542, 544
- Mayor & Council of Dalton v. Wilson, 118 Ga. 100, 101, 44 S.E. 830
- Cornelisen v. City of Atlanta, 146 Ga. 416, 91 S.E. 415
- Aven v. Steiner Cancer Hospital, 189 Ga. 126, 141, 5 S.E.2d 356
- State Farm Mut. Auto. Ins. Co. v. Girtman, 113 Ga. App. 54, 57, 147 S.E.2d 364
- Bagby v. Bowen, 180 Ga. 214, 178 S.E. 439
- McCord v. City of Jackson, 135 Ga. 176, 69 S.E. 23
- Lough v. Estherville, 122 Iowa 479, 483-485, 98 N.W. 308
- Williford v. Moore, 51 Ga. App. 869, 876-877, 181 S.E. 515