

NEW YORK COURT OF APPEALS

Gronski v. County of Monroe

18 N.Y.3d 374 (2011) · No. No. 192 · Decided November 17, 2011

SUMMARY

The New York Court of Appeals held that a factual issue existed as to whether Monroe County exercised sufficient control over a county-owned recycling center to owe a duty of care to an injured worker. The court rejected applying an out-of-possession landlord standard because the agreement with the independent operator did not create a leasehold and because the County retained supervisory rights and access that it exercised in practice. The court reversed the denial of liability on summary judgment and remanded for determination of the County's control and duty.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Ciparick, J.; Chief Judge Lippman; Judge Graffeo; Judge Jones; Judge Ciparick; Judge Pigott; Judge Read; Judge Smith
JURISDICTION	New York
DECIDED	November 17, 2011
DOCKET	No. 192
DISPOSITION	reversed
PROCEDURAL POSTURE	Plaintiff appealed from an order affirming summary judgment for the County in a premises-negligence action. The New York Court of Appeals granted leave to appeal and reviewed whether the County had relinquished control over its recycling facility as a matter of law.
STANDARD OF REVIEW	On summary judgment, the evidence must be viewed in the light most favorable to the nonmoving party; summary judgment is improper where a triable issue of material fact exists.
PRECEDENTIAL VALUE	published precedential opinion of the New York Court of Appeals
PARTIES	John Gronski et al. v. County of Monroe

TOPICS

[premises liability](#)[duty of care](#)[negligence](#)[municipal liability](#)[summary judgment](#)

PRACTICE AREAS

premises liability

negligence

municipal liability

summary judgment

QUESTIONS PRESENTED

1. Whether the County could be treated as an out-of-possession landlord that owed no duty for unsafe conditions at the recycling center.
2. Whether the agreement and the parties' course of conduct established as a matter of law that the County relinquished control over the facility.
3. Whether a triable issue of fact existed concerning the County's control of the facility and resulting duty to prevent or remedy the unsafe condition.

HOLDINGS

1. The out-of-possession-landlord standard was improperly applied because the agreement did not create a leasehold between the County and Metro Waste.
2. A landowner's duty to maintain property in a reasonably safe condition is premised on possession and control, and control is a question of both law and fact.
3. The County did not establish as a matter of law that it relinquished complete control over the recycling center; whether it exercised sufficient control to owe a duty was for the trier of fact.

KEY QUOTATIONS

“Generally, a landowner owes a duty of care to maintain his or her property in a reasonably safe condition”
(18 N.Y.3d at 379)

“It has been held uniformly that control is the test which measures generally the responsibility in tort of the owner of real property” (18 N.Y.3d at 379)

“Rather, the County, as landowner, remains in presumptive control over its property and subject to the attendant obligations of ownership until it is found that control was relinquished, either as a matter of law or by a factfinder after presentation of all of the evidence.” (18 N.Y.3d at 381-382)

FACTUAL BACKGROUND

John Gronski, an employee of Metro Waste Paper Recovery U.S., Inc., was injured when a nearly one-ton bale of paper fell from a stack at a recycling center owned by Monroe County and operated by Metro Waste as an independent contractor. The operations and maintenance agreement assigned Metro Waste responsibility for facility operations, maintenance, and safety, but reserved County approval, inspection, access, and termination rights. County employees regularly toured and inspected the facility, and one County engineer had previously observed bales stacked outside the designated area. Gronski alleged that the County negligently failed to prevent the unsafe condition.

PROCEDURAL HISTORY

Supreme Court granted the County's motion for summary judgment, holding that the operations and maintenance agreement placed responsibility for safety on Metro Waste and that the County was an out-of-possession landlord. The Appellate Division, Fourth Department, affirmed. The Court of Appeals reversed, denied the County's summary-judgment motion, and held that a factual issue remained regarding the County's control over the facility.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The order of the Appellate Division was reversed, with costs, and the County's motion for summary judgment was denied. The factual issue concerning the County's control and resulting duty was left for resolution by a trier of fact.

CASES CITED

- Butler v Rafferty, 100 N.Y.2d 265 (2003)
- Peralta v Henriquez, 100 N.Y.2d 139 (2003)
- Basso v Miller, 40 N.Y.2d 233 (1976)
- Ritto v Goldberg, 27 N.Y.2d 887 (1970)
- Chapman v Silber, 97 N.Y.2d 9 (2001)
- Branham v Loews Orpheum Cinemas, Inc., 8 N.Y.3d 931 (2007)
- Gronski v County of Monroe, 73 A.D.3d 1439 (4th Dep't 2010)
- Gronski v County of Monroe, 15 N.Y.3d 708 (2010)