

SUPREME COURT OF CALIFORNIA

Agins v. City of Tiburon

24 Cal. 3d 266, 598 P.2d 25, 157 Cal. Rptr. 372 (Cal. 1979) · No. S.F. 23866 · Decided March 14, 1979

SUMMARY

The California Supreme Court held that a landowner may challenge a zoning ordinance alleged to substantially restrict property use through declaratory relief or mandamus, but may not recover damages through inverse condemnation on the theory that excessive police-power regulation constitutes a compensable taking. The court concluded that Tiburon's ordinance, which allowed one to five residences on the plaintiffs' five-acre property, did not deprive them of substantially all reasonable use and therefore was not subject to invalidation on the pleaded facts. The judgment dismissing the action was affirmed.

CASE DETAILS

COURT	Supreme Court of California
WRITING FOR THE COURT	Richardson, J.; Bird, C.J.; Tobriner, J.; Mosk, J.; Manuel, J.; Newman, J.
JURISDICTION	California
DECIDED	March 14, 1979
DOCKET	S.F. 23866
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from a judgment dismissing their complaint after the trial court sustained the defendants' demurrer to the inverse-condemnation cause of action without leave to amend and sustained the demurrer to the declaratory-relief cause of action with leave to amend. Plaintiffs declined to amend.
STANDARD OF REVIEW	Review of a judgment following the sustaining of demurrers; the court accepted well-pleaded factual allegations for purposes of the demurrer but considered the ordinance's text.
PRECEDENTIAL VALUE	Published California Supreme Court opinion; binding precedent in California, subject to subsequent limitation or supersession by later takings authority.
PARTIES	Donald W. Agins et al. v. City of Tiburon et al.

TOPICS

zoning eminent domain remedies declaratory judgment constitutional law

PRACTICE AREAS

constitutional law real estate municipal law eminent domain land-use regulation

QUESTIONS PRESENTED

1. Whether a landowner may recover damages through inverse condemnation when a zoning ordinance substantially limits or allegedly eliminates the use and value of private property.
2. Whether declaratory relief or mandamus, rather than inverse condemnation, is the appropriate remedy for challenging an allegedly unconstitutional zoning ordinance.
3. Whether the RPD-1 zoning ordinance unconstitutionally deprived plaintiffs of substantially all reasonable use of their property.
4. Whether the city's precondemnation planning activities and abandoned eminent-domain proceeding independently constituted a taking supporting inverse-condemnation relief.

HOLDINGS

1. A landowner may not recover damages through inverse condemnation merely because a zoning ordinance allegedly exceeds constitutional limits or substantially restricts the use of property; the appropriate remedies are declaratory relief or mandamus to invalidate the regulation.
2. A zoning ordinance is unconstitutional and subject to invalidation only when its effect is to deprive the landowner of substantially all reasonable use of the property.
3. General land-use planning discussions, acquisition studies, bond-related planning, and the filing and abandonment of the city's eminent-domain proceeding did not constitute a taking or provide an independent basis for inverse-condemnation damages on the facts presented.

KEY QUOTATIONS

"We will conclude that although a landowner so aggrieved may challenge both the constitutionality of the ordinance and the manner in which it is applied to his property by seeking to establish the invalidity of the ordinance either through the remedy of declaratory relief or mandamus, he may not recover damages on the theory of inverse condemnation." (270)

"He may not, however, elect to sue in inverse condemnation and thereby transmute an excessive use of the police power into a lawful taking for which compensation in eminent domain must be paid." (273)

"A zoning ordinance may be unconstitutional and subject to invalidation only when its effect is to deprive the landowner of substantially all reasonable use of his property." (277)

FACTUAL BACKGROUND

Plaintiffs owned five acres of unimproved ridgeland in Tiburon that they acquired for residential development. Tiburon's zoning ordinance designated the property RPD-1, allowing between one and five residences, along with open-space and accessory uses, subject to design and environmental requirements. Plaintiffs alleged that the ordinance destroyed the property's value and sought inverse-condemnation damages and declaratory relief. The city had also studied possible acquisition of the land and briefly instituted, then abandoned, eminent-domain proceedings.

PROCEDURAL HISTORY

Tiburon adopted zoning Ordinance No. 124 N.S., and the plaintiffs sought \$2 million in inverse-condemnation damages and declaratory relief. The Marin County Superior Court sustained the city's demurrers and entered a judgment of dismissal with prejudice. The California Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State of California v. Superior Court (Veta), 12 Cal. 3d 237, 524 P.2d 1281, 115 Cal. Rptr. 497 (1974)
- Friedman v. City of Fairfax, 81 Cal. App. 3d 667, 146 Cal. Rptr. 687 (1978)
- Eldridge v. City of Palo Alto, 57 Cal. App. 3d 613, 129 Cal. Rptr. 575 (1976)
- United States v. General Motors Corp., 323 U.S. 373 (1945)
- Pennsylvania Coal Co. v. Mahon, 260 U.S. 393 (1922)
- HFH, Ltd. v. Superior Court, 15 Cal. 3d 508, 542 P.2d 237, 125 Cal. Rptr. 365 (1975)
- Village of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926)
- Selby Realty Co. v. City of San Buenaventura, 10 Cal. 3d 110, 514 P.2d 111, 109 Cal. Rptr. 799 (1973)
- Klopping v. City of Whittier, 8 Cal. 3d 39, 500 P.2d 1345, 104 Cal. Rptr. 1 (1972)
- Navajo Terminals, Inc. v. San Francisco Bay Conservation and Development Commission, 46 Cal. App. 3d 1, 120 Cal. Rptr. 108 (1975)
- City of Walnut Creek v. Leadership Housing Systems, 73 Cal. App. 3d 611, 140 Cal. Rptr. 690 (1977)

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