

APPELLATE COURT OF ILLINOIS, FOURTH DISTRICT

Commissioners of Saline Branch Drainage District v. Maryrose Groth Pilcher et al., 19 Ill. App. 3d 125

310 N.E.2d 454 (Ill. App. Ct. 1974) · No. No. 12217 · Decided April 25, 1974

SUMMARY

The Illinois Appellate Court reviewed a drainage district's petition to levy additional and annual maintenance assessments for clearing and improving a drainage ditch. The court held that environmental, aesthetic, ecological, and recreational considerations were relevant, but found the trial court's order insufficiently specific regarding the method of performing the work. The court vacated the assessment order and remanded for further proceedings, while affirming the judgment approving the assessment rolls and upholding the drainage district's right-of-way.

CASE DETAILS

COURT	Appellate Court of Illinois, Fourth District
WRITING FOR THE COURT	Justice Craven; Justice Trapp; Justice Simkins
JURISDICTION	Illinois
DECIDED	April 25, 1974
DOCKET	No. 12217
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Objectors appealed from orders approving proposed drainage work and assessments under the Illinois Drainage Code and from the judgment approving the assessment rolls. The appellate court affirmed the assessment-roll judgment, vacated the order providing for additional assessments, and remanded for further proceedings.
STANDARD OF REVIEW	The appellate court reviewed the trial court's statutory compliance, evidentiary rulings, and conclusions concerning the drainage district's right-of-way for error; it upheld rulings supported by the record and required compliance with the statutory specificity requirement.
PRECEDENTIAL VALUE	Published Illinois Appellate Court opinion; precedential
PARTIES	Maryrose Groth Pilcher et al. v. Commissioners of Saline Branch Drainage District

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QUESTIONS PRESENTED

1. Whether the trial court was required to consider aesthetic, ecological, environmental, recreational, and conservation factors and viable alternative plans when determining whether proposed drainage work was necessary or advisable and whether its benefits exceeded its costs.
2. Whether the trial court's order sufficiently specified the work to be performed and the method by which it was to be performed under section 4-24 of the Illinois Drainage Code.
3. Whether exclusion of testimony concerning the ornamental and recreational value of trees constituted prejudicial error.
4. Whether expert testimony concerning drainage capacity was admissible when supported by data in the record.
5. Whether the 1935 drainage assessment order validly established the district's perpetual right-of-way and barred the objectors' collateral attack.

HOLDINGS

1. In deciding whether drainage work is necessary or advisable and whether its benefits exceed its costs, the trial court must consider all viable alternatives presented and relevant environmental factors, including aesthetic, ecological, recreational, and conservation values.
2. An order approving drainage work must state with particularity and unambiguously both what work is to be performed and the method by which it is to be performed. The trial court's order was insufficiently specific because its direction to preserve all trees possible was vague and contradicted the near-total-clearing plan incorporated into the order.
3. The exclusion of testimony concerning the dollar ornamental value and recreational value of the trees was not prejudicial error because ample testimony concerning recreational, aesthetic, and environmental value was already before the court.
4. Expert opinion testimony is admissible when the record contains sufficient evidence to provide a foundation for the opinion; opinions based on speculation and conjecture should be excluded. The testimony challenged here was properly admitted.
5. The 1935 order validly established the drainage district's perpetual right-of-way because the issuing court had subject-matter jurisdiction, statutory procedures were followed, notice was given, and compensation was assessed and paid. The objectors were therefore barred from collaterally attacking that order.

KEY QUOTATIONS

“This requires the court to take into consideration all viable alternatives presented to it at the hearing, and if necessary and feasible, incorporate these alternatives into a homogeneous renovation program.” (19 Ill. App. 3d at 130)

“It is also clear that environmental factors are relevant and should be considered by the court in balancing the costs against benefits.” (19 Ill. App. 3d at 130)

“That is, the court should find what must be done and then determine with particularity and unambiguously the method of completing the things which shall be done.” (19 Ill. App. 3d at 131)

“In short, these facts bar the objectors' collateral attack of the 1935 order.” (19 Ill. App. 3d at 133)

FACTUAL BACKGROUND

The Saline Branch Drainage District sought approximately \$125,000 for additional drainage work and \$5,000 for annual maintenance, alleging that debris, silt, vegetation, stumps, and other obstructions had reduced the ditch's hydraulic capacity and contributed to flooding. The objectors proposed selective clearing to preserve trees, wildlife habitat, aesthetic values, and recreational potential, and challenged the exclusion of some testimony about those values. The trial court found the work necessary and advisable but ordered removal of vegetation and debris under the district's plan while directing the commissioners to preserve as many trees as possible. The court also held that a 1935 assessment order had vested the district with a perpetual right-of-way over adjoining lands.

PROCEDURAL HISTORY

The drainage district petitioned the circuit court of Champaign County for additional and annual maintenance assessments to clear and maintain a drainage ditch. After a hearing, the trial court found the work necessary and advisable, adopted essentially the district's proposed plan, and later entered judgment approving the assessment rolls. An earlier appeal was dismissed for lack of a final appealable order. After further proceedings concerning the district's right-of-way and a jury verdict approving the assessment rolls, the objectors appealed. The appellate court affirmed the assessment-roll judgment but vacated and remanded the additional-assessment order because the trial court's description of the work method was insufficiently specific.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The circuit court was directed to conduct further proceedings consistent with the opinion and to enter an order specifying with substantially greater particularity and unambiguity the drainage work to be performed and the method for performing it. The judgment approving the assessment rolls was affirmed.

CASES CITED

- Abramson v. Levinson, 112 Ill. App. 2d 42, 250 N.E.2d 796
- In re Petition to Annex Certain Unincorporated Territory, 65 Ill. App. 2d 152, 212 N.E.2d 507

- Commissioner of Drainage District No. 1 v. Goembel, 383 Ill. 323, 50 N.E.2d 444
- Lewis Drainage District v. Melville, 388 Ill. 526, 58 N.E.2d 580
- In re Petition of Commissioners v. Dennis, 58 Ill. App. 2d 466, 207 N.E.2d 313

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