

SUPREME COURT OF GEORGIA

City of Waycross v. Pierce County Board of Commissioners

300 Ga. 109 (2016) · Decided November 7, 2016

SUMMARY

The Georgia Supreme Court affirmed an interlocutory injunction requiring the City of Waycross to continue providing water and sewer services to property in Pierce County that had been de-annexed by legislation. The court held that the County and intervening customers presented sufficient evidence of irreparable harm, the balance of equities, a substantial likelihood of success, and the public interest, and that the service-delivery agreement could plausibly require continued service. The court also rejected challenges based on standing, municipal management discretion, constitutional limits on extraterritorial services, and alleged procedural defects.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Thompson, Chief Justice
JURISDICTION	Georgia
DECIDED	November 7, 2016
DISPOSITION	affirmed
PROCEDURAL POSTURE	The City appealed an interlocutory injunction requiring it to continue providing water and sewer services to a de-annexed area and otherwise challenging related procedural rulings. The Georgia Court of Appeals affirmed the trial court's ruling without opinion, and the case proceeded to the Supreme Court of Georgia.
STANDARD OF REVIEW	An interlocutory injunction is reviewed for an error of law contributing to the decision, lack of evidence on an essential element, or manifest abuse of discretion. The trial court has broad discretion to balance the equities.
PRECEDENTIAL VALUE	Published Georgia Supreme Court opinion
PARTIES	City of Waycross v. Pierce County Board of Commissioners, Kelly Thrift, Coastal Forklift Hydraulics, Inc.

TOPICS

- municipal law
- public utilities
- injunctions
- contracts
- civil procedure

PRACTICE AREAS

municipal law

injunctions

constitutional law

contracts

civil procedure

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by granting Pierce County an interlocutory injunction requiring Waycross to continue providing water and sewer services to the de-annexed area.
2. Whether the County and intervening customers had standing to seek injunctive relief.
3. Whether the amended counterclaim was an impermissible after-acquired counterclaim and whether the trial court improperly allowed intervention without a prior opportunity for the City to be heard.

HOLDINGS

1. The trial court did not abuse its broad discretion in granting an interlocutory injunction to preserve the status quo while the merits were litigated.
2. Pierce County and the intervening customers had standing to seek injunctive relief against suspension of the City's water and sewer services.
3. The City's procedural objections lacked merit because the trial court held a hearing at which the City was permitted to raise and argue the objections before allowing the counterclaim and intervention to proceed.

KEY QUOTATIONS

“An interlocutory injunction is an extraordinary remedy, and the power to grant it must be “prudently and cautiously exercised.”” (111)

“An interlocutory injunction should not be granted unless the moving party shows that: (1) there is a substantial threat that the moving party will suffer irreparable injury if the injunction is not granted; (2) the threatened injury to the moving party outweighs the threatened harm that the injunction may do to the party being enjoined; (3) there is a substantial likelihood that the moving party will prevail on the merits of her claims at trial; and (4) granting the interlocutory injunction will not disserve the public interest.” (111)

“The trial court could find that the abrupt termination of public water and sewer services simply due to the de-annexation of the County’s territory is an arbitrary act and a clear abuse of discretion.” (113)

FACTUAL BACKGROUND

Waycross, situated primarily in Ware County, annexed property in Pierce County in the 1980s and constructed part of its wastewater treatment facility there. In 1999, the City and County entered service delivery strategy agreements under which the City provided water and sewer services in the annexed area; the agreements had no expiration date and user fees covered the service costs. After a 2015 law de-annexed the area from the City, the City increased user fees and then resolved to discontinue service. The County sought an injunction because it could not promptly replace the services and intervening customers faced displacement or relocation if service ended.

PROCEDURAL HISTORY

The trial court denied the City's request for interlocutory relief in its constitutional challenge to the de-annexation legislation. After the City announced increased fees and then resolved to terminate water and sewer service, Pierce County amended its counterclaim to seek an injunction requiring continued service. The trial court allowed customer intervention and granted the County's request for an interlocutory injunction. The Court of Appeals affirmed without opinion on March 3, 2016. The Supreme Court of Georgia affirmed.

DISPOSITION

affirmed

CASES CITED

- Parker v. West View Cemetery Assn., 195 Ga. 237, 242-243 (24 SE2d 29) (1943)
- Chambers v. Peach County, 268 Ga. 672, 673 (492 SE2d 191) (1997)
- Christopher J. McFadden et al., Georgia Appellate Practice with Forms, § 6-16, pp. 205-206 (2008)
- Bishop v. Patton, 288 Ga. 600, 604-605 (706 SE2d 634) (2011)
- SRB Investment Svcs., LLLP v. Branch Banking and Trust Co., 289 Ga. 1, 5 n. 7 (709 SE2d 267) (2011)
- Garden Hills Civic Assn. v. MARTA, 273 Ga. 280, 281 (539 SE2d 811) (2000)
- Bernocchi v. Forcucci, 279 Ga. 460, 461 (614 SE2d 775) (2005)
- Dooley v. Dun & Bradstreet Software Svcs., 225 Ga. App. 63, 65 (483 SE2d 308) (1997)
- Unified Govt. of Athens-Clarke County v. Stiles Apartments, Inc., 290 Ga. 740, 742 (723 SE2d 681) (2012)
- Kirkland v. Johnson, 209 Ga. 824 (76 SE2d 396) (1953)
- South Ga. Power Co. v. Baumann, 169 Ga. 649, 653 (151 SE 513) (1929)
- Cherokee County v. City of Holly Springs, 284 Ga. 298, 299-300 (667 SE2d 78) (2008)
- Schanck v. Town of Hephzibah, 236 Ga. 530, 533 (224 SE2d 354) (1976)
- Jenkins v. Martin, 142 Ga. App. 573 (236 SE2d 542) (1977)
- Gregory v. Tench, 138 Ga. App. 219, 221 (225 SE2d 753) (1976)
- Lentz v. State Personnel Board, 146 Ga. App. 366, 367 (247 SE2d 145) (1978)