

SUPREME COURT OF KANSAS

Miller v. FW Commercial Properties, LLC, 293 Kan. 1099

272 P.3d 596 (2012) · No. No. 105,006 · Decided March 9, 2012

SUMMARY

The Kansas Supreme Court held that the district court lacked statutory authority under K.S.A. 26-517 to award attorney fees based on quantum meruit to an attorney who was not a party in interest in the eminent domain proceeding. The court reversed the distribution order and remanded with directions to distribute the entire appraisers' award to Oscar Armendariz.

CASE DETAILS

COURT	Supreme Court of Kansas
WRITING FOR THE COURT	Moritz, J.
JURISDICTION	Kansas
DECIDED	March 9, 2012
DOCKET	No. 105,006
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Oscar Armendariz appealed the district court's order distributing an appraisers' award in an eminent domain proceeding. The district court awarded attorney fees to Vernon Jarboe on a quantum meruit theory and distributed the balance of the award to Armendariz.
STANDARD OF REVIEW	Unlimited review of the legal question whether the district court had statutory authority to resolve Jarboe's claim.
PRECEDENTIAL VALUE	Published Kansas Supreme Court opinion
PARTIES	Oscar Armendariz v. Richard Britt, Jr., Angela Britt

TOPICS

eminent domain attorney fees real estate statutory interpretation civil procedure

PRACTICE AREAS

eminent domain real estate attorney fees statutory interpretation civil procedure

QUESTIONS PRESENTED

1. Whether K.S.A. 26-517 authorized the district court to determine the final distribution of the appraisers' award when the attorney asserting a quantum meruit claim was not a party in interest.
2. Whether the district court could award Jarboe attorney fees against Armendariz on a quantum meruit theory under the circumstances.

HOLDINGS

1. K.S.A. 26-517 permits a district court to determine the final distribution of an eminent domain award only when there is a dispute among parties in interest concerning division of the award and a party in interest moves for distribution. Because Jarboe was not a party in interest and the Britts were no longer parties in interest when the order was entered, the district court lacked statutory authority to resolve Jarboe's claim.
2. The district court could not award Jarboe \$2,750 in attorney fees from Armendariz because the court lacked statutory authority under K.S.A. 26-517 to adjudicate Jarboe's claim in the distribution proceeding.

KEY QUOTATIONS

“Thus, when the district court ordered a final distribution of the appraisers' award, it lacked authority to do so under K.S.A. 26-517 because Armendariz was the only party in interest and there was no "dispute among the parties in interest" for the court to resolve.” (600)

FACTUAL BACKGROUND

The Kansas Department of Transportation condemned Tract 46 in Riley County, which was owned by Armendariz but was also claimed by the Britts through a pending quiet title action based on adverse possession. Court-appointed appraisers awarded \$18,000, an \$11,000 increase over KDOT's original settlement offer. Jarboe, the Britts' attorney in the eminent domain proceeding, claimed that his efforts produced the increase and sought 25 percent of it from the award, including on a quantum meruit theory against Armendariz. Before the district court entered its distribution order, the quiet title jury found for Armendariz, leaving him as the only party in interest.

PROCEDURAL HISTORY

The Kansas Department of Transportation initiated eminent domain proceedings concerning Armendariz's property, and court-appointed appraisers awarded \$18,000 for the tract. The Britts, who claimed an interest through a pending quiet title action, moved to distribute the award and sought payment of Jarboe's contingency fee. After the district court raised and considered Jarboe's quantum meruit claim, it awarded Jarboe \$2,750. While the matter was pending, the quiet title action was resolved in Armendariz's favor, making him the sole party in interest. The Supreme Court of Kansas reversed the distribution order and remanded with directions.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the district court's final distribution order and enter an order distributing the entire amount of the award in favor of Armendariz.

CASES CITED

- State v. Comprehensive Health of Planned Parenthood, 291 Kan. 322, 352, 241 P.3d 45 (2010)
- Kansas Medical Mutual Insurance Co. v. Svaty, 291 Kan. 597, 609, 244 P.3d 642 (2010)
- City of Roeland Park v. Jasan Trust, 281 Kan. 668, 672, 132 P.3d 943 (2006)

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