

SUPREME COURT OF ARIZONA

City of Phoenix v. Wilson, 200 Ariz. 2

21 P.3d 388 (2001) · No. CV-00-0149-PR · Decided April 10, 2001

SUMMARY

The Supreme Court of Arizona held that, in an eminent domain proceeding, property may be valued as separate hypothetical units when supported by common sense and market data demonstrating different highest and best uses. The court upheld the admission of an appraiser's testimony valuing a five-acre corner portion differently from the remainder of the parcel. It also affirmed the award of severance damages and vacated the court of appeals' opinion.

CASE DETAILS

COURT	Supreme Court of Arizona
WRITING FOR THE COURT	FELDMAN, Justice; Thomas A. Zlaket, Chief Justice; Charles E. Jones, Vice Chief Justice; Frederick J. Martone, Justice; Ruth V. McGregor, Justice; Feldman, Justice
JURISDICTION	Arizona
DECIDED	April 10, 2001
DOCKET	CV-00-0149-PR
DISPOSITION	vacated
PROCEDURAL POSTURE	The City appealed a jury verdict awarding the landowners compensation for property taken in eminent domain and severance damages. The Arizona Court of Appeals reversed, and the Arizona Supreme Court granted review.
STANDARD OF REVIEW	The court reviewed the legal limitation imposed on valuation evidence de novo and upheld the trial court's evidentiary ruling when supported by an adequate foundation. The valuation of the property taken and severance damages were questions of fact for the fact finder.
PRECEDENTIAL VALUE	published and precedential
PARTIES	City of Phoenix v. Jewel E. Wilson, Spouse, if Married on December 30, 1986, Stewart Allen Wilson, Trustee of the Stewart Allen Wilson Family Trust, Irvin Ivy Wilson, III, Trustee of the Irvin Ivy Wilson, III Family Trust, Catherine Louise Wilson, Trustee of the Irvin I. Wilson, Jr., Trust

TOPICS

eminent domain

eminent domain municipal

damages

constitutional law

remedies

PRACTICE AREAS

eminent domain

real estate

constitutional law

remedies

QUESTIONS PRESENTED

1. Whether eminent-domain valuation evidence may treat a larger parcel, in its before-taking condition, as divisible into hypothetical units with different highest and best uses and corresponding market values.
2. Whether the landowners were entitled to severance damages for diminution in value to the remaining 3.6-acre corner portion after the City condemned 1.4 acres from the corner.
3. Whether the trial court properly admitted the landowners' appraiser's testimony and submitted severance damages to the jury.

HOLDINGS

1. Arizona law does not restrict valuation in a partial-taking case to valuing the property taken only as a separate unit or only as a ratable part of the entire parcel. When common sense and market data provide an adequate foundation showing different highest and best uses, the property may be treated in its before-taking condition as divisible into separate hypothetical entities with different market values.
2. The trial court properly submitted severance damages to the jury, and the award was properly affirmed, because the taking could reduce the value of the remaining 3.6-acre corner portion through diminished visibility, reduced access, irregular configuration, and loss of commercial development potential.

KEY QUOTATIONS

“The application of such a routine method may well be proper as a factual matter in most cases, but it is not a legal principle.” (21 P.3d at 393)

“Thus, when the evidence provides an adequate foundation by common sense and market data showing different highest and best uses, we see no reason why it is improper to consider a large tract of property as if, in the before condition, it were divisible into separate hypothetical entities.” (21 P.3d at 394)

“While trial judges should not permit valuation testimony when it is offered without foundation other than mere speculation or on incorrect factual predicates, we discourage the use of rigid formulae or arbitrary rules that reject valuation opinions based on a proper foundation—common sense and market information.” (21 P.3d at 395)

FACTUAL BACKGROUND

The Wilsons owned a vacant 23.24-acre parcel in Phoenix, and the City condemned 1.4 acres at the corner for a fire station. Although the parcel was zoned for low-density residential use, the City's General Plan contemplated high-density residential development, and the landowners' appraiser testified that rezoning was very likely. He valued a five-acre corner unit at a higher value than the remaining acreage and calculated both the value of the

land taken and severance damages to the remaining 3.6-acre portion of that corner unit. The jury accepted that methodology and awarded \$80,000 for the taking and \$99,000 in severance damages.

PROCEDURAL HISTORY

Phoenix condemned 1.4 acres from the Wilsons' 23.24-acre parcel for a fire station. The trial court admitted the landowners' appraiser's testimony valuing the property as divisible into hypothetical units with different highest and best uses, and the jury awarded \$80,000 for the taking and \$99,000 in severance damages. The court of appeals reversed and remanded, concluding that the property could be valued only as a separate unit or as part of the entire parcel. The Arizona Supreme Court vacated the court of appeals' opinion and affirmed the trial court's judgment.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The court of appeals' opinion was vacated, and the trial court's judgment on the jury verdict was affirmed. No further remand instructions were stated.

CASES CITED

- City of Phoenix v. Wilson, 197 Ariz. 456, 4 P.3d 999 (App. 2000)
- State ex rel. Ordway v. Buchanan, 154 Ariz. 159, 741 P.2d 292 (1987)
- Arizona State Land Dep't v. State ex rel. Herman, 113 Ariz. 125, 547 P.2d 479 (1976)
- Tucson Title Ins. Co. v. State ex rel. Herman, 15 Ariz. App. 452, 489 P.2d 299 (1971)
- Defnet Land & Inv. Co. v. State ex rel. Herman, 103 Ariz. 388, 442 P.2d 835 (1968)
- State ex rel. Morrison v. Jay Six Cattle Co., Inc., 88 Ariz. 97, 353 P.2d 185 (1960)
- Maricopa County v. Barkley, 168 Ariz. 234, 812 P.2d 1052 (App. 1990)
- Selective Resources v. Superior Court, 145 Ariz. 151, 700 P.2d 849 (App. 1984)
- Moschetti v. City of Tucson, 9 Ariz. App. 108, 449 P.2d 945 (1969)
- City of Tucson v. Rickles, 15 Ariz. App. 244, 488 P.2d 180 (1971)
- People v. Silveira, 236 Cal. App. 2d 604, 46 Cal. Rptr. 260 (1965)
- City of Los Angeles v. Allen, 1 Cal. 2d 572, 36 P.2d 611 (1934)
- State ex rel. Morrison v. Thelberg, 87 Ariz. 318, 350 P.2d 988 (1960)
- City of Richardson v. Smith, 494 S.W.2d 933 (Tex. Civ. App. 1973)