

SUPREME COURT OF GEORGIA

Southern Healthcare System, Inc. v. Health Care Capital Consolidated, Inc.

275 Ga. 247 (Ga. 2002) · Decided May 13, 2002

SUMMARY

The Supreme Court of Georgia held that the law of the case did not give Bank One veto power over the selection of an independent manager for Southern Healthcare System's facilities. Because the trial court's potential appointment of a receiver was contingent on a future failure to agree on a manager, issues concerning receivership were hypothetical and not presently reviewable.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Carley, Justice; All other Justices
JURISDICTION	Georgia
DECIDED	May 13, 2002
DISPOSITION	affirmed
PROCEDURAL POSTURE	Southern Healthcare System appealed from a trial court order entered after a contempt hearing concerning compliance with an injunction requiring selection of an independent manager for its health care facilities. The order required the parties to agree on a manager and made appointment of a receiver contingent on their failure to agree.
PRECEDENTIAL VALUE	binding
PARTIES	Southern Healthcare System, Inc. v. Health Care Capital Consolidated, Inc.

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the law-of-the-case doctrine prevented the trial court from excluding Bank One from continued participation in selecting an independent manager.
2. Whether the Supreme Court could review the trial court's conditional provision for appointment of a receiver when no receiver had yet been appointed.

HOLDINGS

1. The prior decision did not give Bank One veto power over selection of the independent manager. It required Health Care Capital Consolidated to act in conjunction with the senior lender by seeking its input, but did not make selection contingent on the senior lender's approval. Because Bank One declined to participate, the trial court correctly treated Southern Healthcare System as the only remaining participant in the selection process.
2. The conditional appointment of a receiver was hypothetical and was not reviewable because the trial court had not actually appointed a receiver. Any challenge to a receiver appointment could be brought after an actual appointment and timely appeal from that order.

KEY QUOTATIONS

“This court will not consider . . . hypothetical questions.” (249)

FACTUAL BACKGROUND

Health Care Capital Consolidated was a junior lender to Southern Healthcare System, while Bank One was among the senior lenders. An earlier injunction required Southern to obtain approval of a third-party manager, with senior lenders permitted to participate in the selection process. Bank One declined to participate, and the trial court ordered Southern and Health Care Capital Consolidated to agree on an independent manager, making appointment of a receiver contingent on failure to reach agreement.

PROCEDURAL HISTORY

In prior proceedings, the Supreme Court of Georgia affirmed an injunction barring Southern Healthcare System from managing its facilities and requiring approval of a third-party manager in conjunction with the senior lenders. After Southern continued managing the facilities, Health Care Capital Consolidated sought contempt relief. The trial court found that Bank One had declined to participate in the selection process, ruled that only Southern remained a participant, and conditionally threatened appointment of a receiver. The Supreme Court affirmed the order and vacated the stay issued to preserve appellate jurisdiction.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

No remand was ordered. Issues concerning appointment of a receiver were left for review only if the trial court later appointed one and a timely appeal was filed. The stay issued to preserve appellate jurisdiction was vacated.

CASES CITED

- Southern Healthcare Sys. v. Health Care Capital Consolidated, 273 Ga. 834, 545 S.E.2d 882 (2001)
- Jebco Ventures v. City of Smyrna, 259 Ga. 599, 385 S.E.2d 397 (1989)
- Jackson v. Bibb County School Dist., 271 Ga. 18, 515 S.E.2d 151 (1999)
- Dasher v. State, 149 Ga. App. 740, 256 S.E.2d 106 (1979)
- Goodyear v. Trust Co. Bank, 247 Ga. 281, 276 S.E.2d 30 (1981)

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