

SUPREME COURT OF MISSISSIPPI

Green Realty Management Corporation v. Mississippi
Transportation Commission

No. No. 2007-CA-01797-SCT, Supreme Court of Mississippi (September 6, 2007)

SUMMARY

The Mississippi Supreme Court reviewed a summary judgment entered for the Mississippi Transportation Commission in an eminent-domain dispute involving alleged nondisclosure of plans to replace a culvert and divert water onto the plaintiff’s remaining property. The court held that the availability of project plans in public records did not eliminate the Commission’s potential duty to disclose material facts or resolve factual questions concerning misrepresentation and the validity of deed releases. The court reversed and remanded for trial.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Kitchens, Justice; Waller, Chief Justice; Carlson, Presiding Justice; Graves, Presiding Justice; Dickinson, Justice; Randolph, Justice; Lamar, Justice; Chandler, Justice; Pierce, Justice
JURISDICTION	Mississippi
DECIDED	September 6, 2007
DOCKET	No. 2007-CA-01797-SCT
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Green Realty appealed the Grenada County Circuit Court's grant of summary judgment for the Mississippi Transportation Commission in an eminent-domain action alleging that nondisclosure and misrepresentation concerning a road-widening project's diversion of surface water caused an uncompensated taking.
STANDARD OF REVIEW	De novo review of a trial court's grant of summary judgment.
PRECEDENTIAL VALUE	Published opinion; precedential value is not otherwise specified in the source.
PARTIES	Green Realty Management Corporation v. Mississippi Transportation Commission

TOPICS

eminent domain takings clause summary judgment fraud civil procedure

PRACTICE AREAS

eminent domain administrative law fraud civil procedure constitutional law

QUESTIONS PRESENTED

1. Whether summary judgment was proper when Green Realty's affidavit and other evidence created genuine issues of material fact concerning the Commission's alleged misrepresentations or omissions about the culvert replacement and resulting water diversion.
2. Whether the existence of project plans and specifications in public offices eliminated any duty to disclose material facts or defeated a claim for fraudulent or negligent misrepresentation.
3. Whether release provisions in the warranty deeds could support summary judgment when the releases may have been procured through misrepresentation or concealment.
4. Whether the evidence created a jury question concerning the circumstances surrounding the Commission's procurement and use of the releases.

HOLDINGS

1. The existence of publicly recorded documents does not absolve a party of its duty to disclose material facts when silence would result in negligent or fraudulent misrepresentation; a plaintiff alleging fraudulent misrepresentation is not required to discover the truth from public records.
2. A release obtained through misrepresentation or illegal concealment of material facts is not necessarily enforceable, and whether a release is void because of misrepresentation, lack of good faith and full understanding, or inadequate consideration is a question for the jury when supported by evidence.
3. Summary judgment was improper because Green Realty presented evidence sufficient to create genuine issues of material fact regarding misrepresentation, suppression of material facts, and the effect of the deed releases.

KEY QUOTATIONS

"[F]raud may be predicated on false representations or concealments, although the truth could have been ascertained by an examination of public records." (§6)

"The existence of publicly-recorded documents does not absolve a party of its duty to disclose when silence will result in negligent or fraudulent misrepresentation." (§15)

"Green Realty presented evidence sufficient to create a genuine issue of material fact in this case, and the trial court erred in holding to the contrary." (§15)

FACTUAL BACKGROUND

The Mississippi Transportation Commission purchased two tracts from Green Realty as part of a road-widening project near Grenada. After the purchase, Green Realty learned that the Commission planned to replace an existing culvert with a much larger box culvert, allegedly increasing Howard Creek water flow onto Green Realty's remaining property and threatening buildings there. Green Realty asserted that the Commission's offers, map, and deeds did not disclose the planned water diversion and that it incurred substantial expenses constructing drainage works. Green Realty sued for an alleged taking without just compensation and related misrepresentation claims.

PROCEDURAL HISTORY

The Mississippi Transportation Commission purchased two tracts of undeveloped land from Green Realty for a road-widening project. Green Realty later sued and sought an injunction, alleging that replacement of a culvert would divert substantial water onto its remaining property and cause a taking without just compensation. The circuit court granted the Commission summary judgment, concluding that project plans were publicly available and that Green Realty failed to prove fraudulent or negligent misrepresentation. The Mississippi Supreme Court reversed and remanded for trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings and trial on the merits.

CASES CITED

- Callicutt v. Prof'l Servs. of Potts Camp, Inc., 974 So. 2d 216, 219 (Miss. 2007)
- Gustella v. Wardell, 198 So. 2d 227, 230-31 (Miss. 1967)
- Parham v. Randolph, 5 Miss. 435, 4 How. 435 (1840)
- Shogyo Int'l Corp. v. First Nat'l Bank, 475 So. 2d 425, 428 (Miss. 1985)
- Holman v. Howard Wilson Chrysler Jeep, Inc., 972 So. 2d 564, 568 (Miss. 2008)
- Welsh v. Mounger, 883 So. 2d 46, 49 (Miss. 2004)
- Royer Homes of Miss., Inc. v. Chandeleur Homes, Inc., 857 So. 2d 748, 754 (Miss. 2003)
- Garner v. Hickman, 733 So. 2d 191, 196 (Miss. 1999)
- Willis v. Marlar, 458 So. 2d 722, 724 (Miss. 1984)
- King v. Mississippi Transportation Commission, 609 So. 2d 1251 (Miss. 1991)
- Miss. Transp. Comm'n v. Ronald Adams Constr., Inc., 753 So. 2d 1077, 1087 (Miss. 2000)
- Griffin v. Tall Timbers Dev., Inc., 681 So. 2d 546, 551 (Miss. 1996)
- Warner v. Warner, 175 Miss. 476, 479 (1936)
- Coleman Powermate, Inc. v. Rheem Mfg. Co., 880 So. 2d 329, 332 (Miss. 2004)
- Richmond v. Benchmark Constr. Corp., 692 So. 2d 60, 61 (Miss. 1997)

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