

SUPREME COURT OF ARKANSAS

City of Benton v. Alcoa Road Storage, Inc.

2017 Ark. 78 (2017) · No. CV-16-22 · Decided March 9, 2017

SUMMARY

The Arkansas Supreme Court held that Arkansas Code Annotated section 18-15-307(c) does not authorize an award of attorneys' fees against a municipality in a condemnation proceeding. It also held that the statute does not permit recovery of expert-witness fees incurred by the landowner in establishing just compensation. The court reversed the attorneys' fee award and affirmed the denial of expert-witness fees.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	John Dan Kemp
JURISDICTION	Arkansas
DECIDED	March 9, 2017
DOCKET	CV-16-22
DISPOSITION	other
PROCEDURAL POSTURE	The City appealed an award of attorneys' fees entered for Alcoa in a municipal condemnation proceeding. Alcoa cross-appealed the denial of expert-witness fees. The Supreme Court of Arkansas reviewed the case after accepting certification from the court of appeals.
STANDARD OF REVIEW	De novo review of the interpretation of Arkansas statutes.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential.
PARTIES	City of Benton v. Alcoa Road Storage, Inc.

TOPICS

eminent domain municipal

statutory interpretation

remedies

municipal law

appellate procedure

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the phrase "costs occasioned by the assessment" in Arkansas Code Annotated section 18-15-307(c) authorizes an award of attorneys' fees against a municipality in a condemnation proceeding.
2. Whether expert-witness fees incurred by a landowner to establish the calculation of just compensation constitute costs occasioned by the assessment under Arkansas Code Annotated section 18-15-307(c).

HOLDINGS

1. Arkansas Code Annotated section 18-15-307(c) does not authorize an award of attorneys' fees against a municipality in a condemnation proceeding because attorneys' fees are not ordinarily included within statutory costs and are not expressly provided for.
2. Expert-witness fees incurred by a landowner to establish the amount of just compensation are not costs occasioned by the assessment under section 18-15-307(c), absent statutory authority expressly allowing their recovery.

KEY QUOTATIONS

"The American rule, which is observed in Arkansas, is that attorneys' fees are not chargeable as costs in litigation unless specifically permitted by statute." (3)

"We conclude that, when the legislature provided for "costs occasioned by the assessment," it was contemplating only those costs that could be taxed in an ordinary action, and not all expenses that a party may have incurred." (4)

FACTUAL BACKGROUND

The City of Benton condemned real property owned by Alcoa Road Storage, Inc. The circuit court ordered the City to deposit \$197,100, and a jury later determined that Alcoa was entitled to \$317,550 in just compensation. Alcoa sought \$9,285.39 in attorneys' fees and \$22,314.76 in expert-witness fees incurred in establishing the amount of compensation.

PROCEDURAL HISTORY

The City filed an eminent-domain complaint in the Saline County Circuit Court. After a jury awarded Alcoa \$317,550 in compensation, Alcoa sought attorneys' fees and expert-witness fees. The circuit court awarded attorneys' fees but denied expert-witness fees. The Supreme Court reversed the attorneys' fee award on direct appeal and affirmed the denial of expert-witness fees on cross-appeal.

DISPOSITION

other

CASES CITED

- Roeder v. United States, 2014 Ark. 156, 432 S.W.3d 627
- Woodrome v. Daniels, 2010 Ark. 244, 370 S.W.3d 190
- Raymond James Fin. Servs., Inc., 373 Ark. 79, 281 S.W.3d 721

- Love v. Smackover Sch. Dist., 329 Ark. 4, 946 S.W.2d 676 (1997)
- Chrisco v. Sun Indus., Inc., 304 Ark. 227, 800 S.W.2d 717 (1990)
- Med. Liability Mut. Ins. Co. v. Alan Curtis Enters., 373 Ark. 525, 285 S.W.3d 233 (2008)
- Temple v. Lawson, 19 Ark. 148 (1857)
- Ellis v. Ark. State Highway Comm'n, 2010 Ark. 196, 363 S.W.3d 321
- Ark. State Highway Comm'n v. Johnson, 300 Ark. 454, 780 S.W.2d 326 (1989)
- Ark. Dep't of Human Servs. v. Kistler, 320 Ark. 501, 898 S.W.2d 32 (1995)
- State v. McLeod, 318 Ark. 781, 888 S.W.2d 639 (1994)
- Thorn v. Clendenin, 12 Ark. 60, 62 (1851)
- Ark. State Game & Fish Comm'n v. Kizer, 222 Ark. 673, 262 S.W.2d 265 (1953)
- Wood v. Tyler, 317 Ark. 319, 877 S.W.2d 582 (1994)
- Sutton v. Ryder Truck Rental, Inc., 305 Ark. 231, 807 S.W.2d 905 (1991)
- Ark. State Highway Comm'n v. Union Planters Nat'l Bank, 231 Ark. 907, 333 S.W.2d 904 (1960)
- Hammerhead Contracting & Dev., LLC v. Ladd, 2016 Ark. 162, 489 S.W.3d 654
- Ark. State Highway Comm'n v. Vick, 284 Ark. 372, 682 S.W.2d 731 (1985)
- Summerville v. Thrower, 369 Ark. 231, 253 S.W.3d 415 (2007)