

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, FOURTH DEPARTMENT

Vanderhoef v. Doe

106 A.D.3d 1486 · Decided May 3, 2013

SUMMARY

The court affirmed summary judgment awarding defendants specified percentages of oil and gas royalties under a 1932 royalty agreement. It held that the additional payment provision was a condition subsequent and that equitable relief was appropriate to avoid forfeiture because defendants were unaware of their rights and the amount subject to forfeiture was grossly disproportionate to the required payment.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Fourth Department
WRITING FOR THE COURT	Scudder, P.J.; Smith, J.; Centra, J.; Garni, J.; Sconiers, J.
JURISDICTION	New York
DECIDED	May 3, 2013
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from an order granting defendants' cross motions for summary judgment in a forfeiture action involving oil and gas royalty interests.
STANDARD OF REVIEW	De novo review of the order granting summary judgment.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Vanderhoef v. Frederick Parsons, III, Janet Callahan Feldt

TOPICS

- oil and gas
- minerals
- equitable relief
- remedies
- appellate procedure

PRACTICE AREAS

- real estate
- oil and gas
- equitable remedies
- appellate procedure

QUESTIONS PRESENTED

1. Whether the additional payment provision in the 1932 royalty agreement was a condition precedent or a condition subsequent.
2. Whether equity should relieve defendants from forfeiture of their vested oil and gas royalty interests because they were unaware of their rights and the forfeiture was disproportionate to the amount owed.

HOLDINGS

1. The additional payment provision was a condition subsequent because the royalty rights vested when the land began producing oil or gas at the specified rate, and the payment was required afterward to preserve those rights.
2. Equity should intervene to prevent forfeiture of defendants' royalty interests because defendants were unaware of their rights and the approximately \$121,000 forfeiture was grossly disproportionate to the approximately \$410 payment required under the agreement.

KEY QUOTATIONS

“There is a wide distinction between a condition precedent, where no title has vested and none is to vest until the condition is performed, and a condition subsequent, operating by way of a defeasance.” (1487)

“Thus, equitable relief will not “ordinarily be given where the breach is of a condition precedent”” (1487)

“equity abhors forfeitures” (1487)

“a court of equity will interpose its power to relieve against forfeitures for a breach of a condition subsequent caused by unavoidable accident, [or] by fraud, surprise or ignorance” (1488)

FACTUAL BACKGROUND

Under a 1932 oil and gas royalty sale, the plaintiff's predecessors assigned the original grantees one-half of the oil and gas royalties from a parcel in Steuben County. The agreement required the grantees or their successors to make an additional payment per acre when production reached a specified level to preserve their royalty rights. Production reached that level in September 2006, but the successors were unaware of their rights until after the plaintiff gave notice of forfeiture in January 2007 and commenced the action. The additional payment owed was approximately \$410, while the plaintiff sought forfeiture of approximately \$121,000 in royalties.

PROCEDURAL HISTORY

Supreme Court, Steuben County, granted defendants' cross motions for summary judgment and determined that defendants were entitled to specified percentages of royalties held in escrow. Plaintiff appealed, and the Appellate Division unanimously affirmed without costs.

DISPOSITION

affirmed

CASES CITED

- J. N. A. Realty Corp. v. Cross Bay Chelsea, 42 N.Y.2d 392, 397 (1977)
- Noyes v. Anderson, 124 N.Y. 175, 179 (1891)
- Munro v. Syracuse, Lake Shore & N. R.R. Co., 200 N.Y. 224, 231 (1910)
- Fifty States Mgt. Corp. v. Pioneer Auto Parks, 46 N.Y.2d 573, 577 (1979)
- O & W Lines v. Saint John, 20 N.Y.2d 17, 23 (1967)
- Morgan v. Herzog, 301 N.Y. 127, 137 (1950)
- Whiteside v. North Am. Acc. Ins. Co. of Chicago, 200 N.Y. 320, 324 (1911)
- Matter of A.D.W. Realty Corp. v. Dee-Dee Cafe Corp., 54 Misc. 2d 130, 132 (1967)

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