

SUPREME COURT OF ILLINOIS

People ex rel. Ryan v. Agpro, Inc.

Agpro · No. 97986 · Decided February 3, 2005

SUMMARY

The Illinois Supreme Court held that section 42(e) of the Environmental Protection Act, as then written, authorized only prohibitory injunctions and did not permit a mandatory injunction requiring defendants to clean up contamination they caused. The court rejected the State’s arguments based on related statutory provisions, a subsequent statutory amendment, continuing violations, and policy considerations, and affirmed the appellate court’s judgment.

CASE DETAILS

COURT	Supreme Court of Illinois
WRITING FOR THE COURT	Justice Garman
JURISDICTION	Illinois
DECIDED	February 3, 2005
DOCKET	97986
DISPOSITION	affirmed
PROCEDURAL POSTURE	The State sought review of the appellate court's affirmance of the circuit court's denial of a mandatory injunction requiring defendants to clean up pesticide contamination.
STANDARD OF REVIEW	De novo review applies to the question of statutory construction.
PRECEDENTIAL VALUE	Published Illinois Supreme Court opinion; precedential.
PARTIES	The People ex rel. James E. Ryan, Attorney General v. Agpro, Inc., David J. Schulte

TOPICS

- environmental law
- statutory interpretation
- plain meaning rule
- remedies
- appellate procedure

PRACTICE AREAS

- environmental law
- statutory interpretation
- remedies
- appellate procedure

QUESTIONS PRESENTED

1. Whether section 42(e) of the Illinois Environmental Protection Act authorized a mandatory injunction requiring defendants to take affirmative action to clean up contamination they caused.
2. Whether a subsequent amendment to section 42(e) could be treated as a retrospective clarification of the statute's original meaning.
3. Whether the concept of a continuing violation or other provisions of the Environmental Protection Act supplied authority for the requested mandatory injunction.

HOLDINGS

1. Section 42(e) of the Environmental Protection Act, which authorizes an action for an injunction 'to restrain violations,' does not authorize a mandatory injunction ordering a polluter to take affirmative action to clean up contamination after the polluting conduct has occurred.
2. The 2004 amendment adding express authorization for 'prohibitory or mandatory' injunctions was a change in the law, not a retrospective clarification of section 42(e)'s original meaning, and could not control the outcome of this case.

KEY QUOTATIONS

“For the foregoing reasons, we hold that section 42(e) of the Act does not authorize a mandatory injunction ordering defendants to take affirmative action to clean up the Agpro site.” (Conclusion)

“Based on the plain and ordinary meaning of the word “restrain,” we conclude the legislature did not intend in section 42(e) to authorize a mandatory injunction such as the State seeks.” (Analysis)

FACTUAL BACKGROUND

Between 1988 and 1993, Agpro, Inc., and David J. Schulte operated a business applying fertilizers and pesticides to farm fields from a site in Woosung, Illinois. The circuit court found that defendants caused or allowed pesticide contamination of soil at the site, with contaminants also present in groundwater and nearby residential wells. Federal authorities installed filtration systems in eight residences, but testing in 2000 continued to show pesticide contamination. The State sought an order requiring defendants to take affirmative cleanup measures, including removal of contaminated soil.

PROCEDURAL HISTORY

The State filed suit in 1994 seeking injunctive relief, remediation costs, and civil penalties. After a 2002 bench trial, the circuit court of Ogle County awarded certain remediation costs and imposed a civil penalty but denied injunctive relief. The appellate court reversed and remanded on a remediation-cost issue but affirmed the denial of injunctive relief. The Illinois Supreme Court allowed the State's petition for leave to appeal under Rule 315 and affirmed.

DISPOSITION

affirmed

CASES CITED

- Michigan Avenue National Bank v. County of Cook, 191 Ill. 2d 493, 503 (2000)
- Caveney v. Bower, 207 Ill. 2d 82, 87-88 (2003)
- In re Marriage of Kates, 198 Ill. 2d 156, 163, 167 (2001)
- Whitman v. American Trucking Associations, 531 U.S. 457, 468, 149 L. Ed. 2d 1, 13, 121 S. Ct. 903, 909-10 (2001)
- Collins v. Board of Trustees of the Firemen's Annuity & Benefit Fund of Chicago, 155 Ill. 2d 103, 111, 120-21 (1993)
- Bruni v. Department of Registration & Education, 59 Ill. 2d 6, 11-12 (1974)
- Roth v. Yackley, 77 Ill. 2d 423, 426, 428-29 (1979)
- People v. DuMontelle, 71 Ill. 2d 157 (1978)
- In re Marriage of Cohn, 93 Ill. 2d 190, 203 (1982)
- Mattis v. State Universities Retirement System, 212 Ill. 2d 58, 83-84 (2004)
- In re Detention of Lieberman, 201 Ill. 2d 300, 320-21 (2002)
- Central Illinois Public Service Co. v. Pollution Control Board, 116 Ill. 2d 397, 406-07 (1987)
- People v. Rink, 97 Ill. 2d 533, 540-41 (1983)
- Illinois State Toll Highway Authority v. Amoco Oil Co., 336 Ill. App. 3d 300, 315 (2003)
- People v. Brockman, 143 Ill. 2d 351 (1991)

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