

SUPREME COURT OF OKLAHOMA

House of Realty, Inc. v. City of Midwest City

109 P.3d 314 (Okla. 2004) · No. No. 99,422 · Decided December 21, 2004

SUMMARY

Landowners challenged Midwest City’s proposed condemnation of their property and the Midwest City Hospital Authority’s participation in an economic development project. The Oklahoma Supreme Court held that the City’s condemnation issue was moot, that 60 O.S. 2001 § 178.4 applied to the Hospital Authority unless another legal authority provided an exemption, and that the applicability of § 178.6 required further proceedings in the trial court. The Court also held that the Hospital Authority’s trust indenture required preservation of the compounded principal and that voter approval was necessary for the proposed expenditure.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Edmondson, J.; Watt, C.J.; Lavender, J.; Hargrave, J.; Kauger, J.; Winchester, J.; Taylor, J.; Colbert, J.
JURISDICTION	Oklahoma
DECIDED	December 21, 2004
DOCKET	No. 99,422
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Landowners appealed from a district court judgment granting defendants partial summary judgment on two issues and ruling for defendants after a subsequent nonjury trial on the remaining issue. The Oklahoma Supreme Court retained the appeal.
STANDARD OF REVIEW	The opinion states that appellate review is generally limited to facts appearing in the certified record, subject to exceptions for admissions and post-appeal facts bearing on mootness. The opinion does not expressly state a separate standard of review for the summary-judgment rulings.
PRECEDENTIAL VALUE	Published opinion; precedential decision of the Supreme Court of Oklahoma.
PARTIES	House of Realty, Inc., Robert J. Barton, individually and as trustee of the Robert J. Barton Revocable Trust and successor trustee of the

Shirley A. "Goetsch" Barton Revocable Trust, Pamela Barton-Stober,
Other citizens, residents, and taxpayers of the City of Midwest City v.
City of Midwest City, Midwest City Memorial Hospital Authority

TOPICS

municipal law

municipal finance

statutory interpretation

eminent domain municipal

mootness

PRACTICE AREAS

Municipal law

Trusts and estates

Real estate

Eminent domain

Appellate procedure

QUESTIONS PRESENTED

1. Whether the City's proposed use of its general eminent-domain power in combination with the Local Development Act remained justiciable after the City abandoned its effort to condemn the landowners' property.
2. Whether 60 O.S. 2001 § 178.4 prohibited the Midwest City Hospital Authority from purchasing and leasing property for a project involving retail outlets, absent an exemption under another statute.
3. Whether the Hospital Authority's Amended and Restated Trust Indenture required preservation of the Compounded Principal and therefore required a vote of the people before the Authority could invest \$30 million of that principal in the commercial real-estate project.

HOLDINGS

1. The eminent-domain issue was moot because the City had abandoned its effort to exercise eminent domain against the landowners' property and therefore no effective injunctive relief could be granted against the City.
2. Section 178.4 applied to the Midwest City Hospital Authority and prohibited it from purchasing land for the project because the project involved financing and providing land for retail activities, unless the Authority could establish an exemption under other legal authority.
3. The Hospital Authority's Amended and Restated Trust Indenture required the Trustees to preserve the Compounded Principal in a form available for expenditure if the hospital lease terminated early, unless the people authorized another expenditure by vote.
4. A vote of the people of Midwest City was necessary before the Hospital Authority could invest \$30 million from the Compounded Principal in the economic-development project as the owner of the commercial real estate.

KEY QUOTATIONS

"We affirm, in part, the judgment of the District Court relating to an issue that is moot on appeal. We reverse, in part, the judgment and hold that 60 O.S.2001 § 178.4 applies to the Hospital Authority unless exempted by other authority." (316)

“The arguments of both sides to this dispute are based upon the meaning of the language in Article III of the Trust Indenture that limits spending the Compounded Principal.” (324)

“We agree with Landowners that the Trust Indenture requires a vote of the people for the Authority to invest thirty million dollars from the Compounded Principal in a commercial real estate project for the purpose of the Authority becoming the owner of the real estate in that project.” (326)

FACTUAL BACKGROUND

The City pursued an economic-development project that included the landowners' property and initially sought to acquire it through eminent domain. The Midwest City Hospital Authority, a public trust, supplied project funding and planned to acquire the property and lease it to a private redeveloper for a retail development. The Authority proposed investing approximately \$30 million of the trust's approximately \$67 million Compounded Principal in the project, although the trust indenture required preservation of that principal except upon early termination of the hospital lease or an affirmative vote of Midwest City voters.

PROCEDURAL HISTORY

The landowners sought injunctive relief to prevent the City from condemning their property and declaratory relief concerning the Hospital Authority's statutory authority and use of trust funds. The district court ruled that the City could condemn the property, that 60 O.S. 2001 § 178.4 did not prohibit the Hospital Authority's lease of the property for redevelopment, and that the Authority could use trust principal for the project without a public vote. The Supreme Court held the eminent-domain issue moot, reversed the rulings concerning § 178.4 and the trust indenture, and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings consistent with the opinion, including a first-instance determination, if necessary, of whether 60 O.S. 2001 § 178.6 exempts the Hospital Authority from § 178.4 based on a legally valid and properly implemented urban-renewal plan. The trial court must also apply the holding that the Compounded Principal must be preserved and that voter approval is required for the proposed \$30 million investment.

CASES CITED

- City of Midwest City v. House of Realty, Inc., 2004 OK 56, 100 P.3d 678
- S.W. v. Duncan, 2001 OK 39, 24 P.3d 846, 855
- Halliburton Oil Producing Co. v. Grothaus, 1998 OK 110, 981 P.2d 1244
- Lawrence v. Cleveland County Home Loan Authority, 1981 OK 28, 626 P.2d 314, 315
- Rogers v. Excise Board of Greer County, 1984 OK 95, 701 P.2d 754, 758-759
- Summey v. Tisdale, 1982 OK 133, 658 P.2d 464

- Sharp v. 251st Street Landfill, Inc., 1996 OK 109, 925 P.2d 546, 549
- Southwestern Bell Telephone Co. v. Oklahoma Corporation Commission, 1994 OK 142, 897 P.2d 1116, 1118
- Hodgins v. Hodgins, 1909 OK 101, 103 P. 711, 713
- City of Oklahoma City v. Oklahoma City Urban Renewal Authority, 1999 OK 71, 988 P.2d 901, 907
- Ethics Commission v. Cullison, 1993 OK 37, 850 P.2d 1069, 1073
- State ex rel. Oklahoma Capitol Improvement Authority v. E.A. Cowen Construction Co., 1974 OK 4, 518 P.2d 1264, 1266
- Post Oak Oil Co. v. Stack & Barnes, P.C., 1996 OK 23, 913 P.2d 1311, 1314
- National Cowboy Hall of Fame and Western Heritage Center v. State ex rel. Oklahoma Human Rights Commission, 1978 OK 76, 579 P.2d 1276, 1279
- Goble v. Mazie Dependent School District D-32, 1971 OK 105, 488 P.2d 156, 157
- Matter of Home-Stake Production Co. Deferred Compensation Trust, 1979 OK 81, 598 P.2d 1193, 1196
- American Insurance Association v. State Industrial Commission, 1987 OK 107, 745 P.2d 737, 740-741
- Myers v. Lashley, 2002 OK 14, 44 P.3d 553
- Matter of C.A.D., 1992 OK 89, 839 P.2d 165, 169
- City of Oklahoma City v. State ex rel. Oklahoma Department of Labor, 1995 OK 107, 918 P.2d 26, 32
- Strelecki v. Oklahoma Tax Commission, 1993 OK 122, 872 P.2d 910, 913-916