SUPREME COURT OF NORTH DAKOTA

Fleck v. Missouri River Royalty Corp.

872 N.W.2d 329, 2015 ND 287 (N.D. 2015) · Decided December 7, 2015

SUMMARY

The North Dakota Supreme Court reversed summary judgment quieting title to an oil and gas lease in favor of the defendants. The court held that "production" in the lease's habendum and savings clauses generally means production in paying quantities and concluded that genuine issues of material fact existed regarding whether the well produced in paying quantities and whether the lease terminated.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Crothers, Justice; Dale V. Sandstrom, Acting Chief Justice; Lisa Fair McEvers, Justice; Benny A. Graff, Senior Judge; Mary Muehlen Maring, Senior Judge
JURISDICTION	North Dakota
DECIDED	December 7, 2015
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a summary judgment quieting title to an oil and gas lease in favor of the defendants.
STANDARD OF REVIEW	Summary judgment and contract interpretation are reviewed de novo. The evidence is viewed in the light most favorable to the party opposing summary judgment, with that party receiving the benefit of all favorable inferences reasonably drawn from the record.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Nathaniel Fleck and Alma Bergmann, as trustees of the George J. Fleck Trust v. Missouri River Royalty Corp., Exxon Mobil Corp., Mountain Pacific General, Inc.

TOPICS

oil and gas · mineral rights · contract interpretation · summary judgment · appellate procedure

PRACTICE AREAS

oil and gas | mineral rights | contracts | real estate | civil procedure | appellate procedure

QUESTIONS PRESENTED

1. Whether the term "production" in the lease's habendum clause means production in paying quantities.
2. Whether the term "production" in the lease's savings clause likewise means production in paying quantities and what operations are required to preserve the lease after such production ceases.
3. Whether genuine issues of material fact concerning production in paying quantities precluded summary judgment.

HOLDINGS

1. Because the lease did not define production, the term "production" in the habendum clause means production in paying quantities for purposes of extending the lease beyond its primary term.
2. Determining whether a well is producing in paying quantities requires consideration of whether it yields a profit over operating costs over a reasonable period and whether a reasonably prudent operator would continue operating it under the relevant facts and circumstances.
3. The term "production" in the savings clause also means production in paying quantities. If production in paying quantities ceases after the primary term, the lease remains in force if the lessee begins operations within ninety days to drill a well or restore production to paying quantities; the lessee need not restore paying production within the ninety-day period.
4. Summary judgment was improper because whether the Fleck 1 well produced in paying quantities during the relevant period was a genuine issue of material fact.

KEY QUOTATIONS

> *"A court must consider whether the well yielded a profit over operating costs over a reasonable period of time and whether a reasonable and prudent operator would continue to operate a well in the manner in which the well was operated under the relevant facts and circumstances."* (872 N.W.2d at 334-35)

> *"The lessee is not required to restore production in paying quantities within ninety days, but is required to begin operations to drill a well or to restore production to paying quantities."* (872 N.W.2d at 335-36)

FACTUAL BACKGROUND

The George J. Fleck Trust owned mineral interests in McKenzie County subject to a 1972 oil and gas lease with a ten-year primary term and a secondary term lasting as long as oil or gas was produced. The lease also contained a savings clause allowing the lessee to preserve the lease by resuming operations to drill a well or restore production within ninety days after production ceased. The Fleck 1 well was completed in 1982, but the trustees alleged that production stopped being commercially profitable in 2010 and served a notice of forfeiture in 2012. The defendants maintained that the lease remained valid because the well continued producing and because they undertook operations to restore production.

PROCEDURAL HISTORY

The trustees sued to quiet title, alleging the oil and gas lease had terminated because the well was no longer producing oil or gas in paying quantities and the lessees failed to commence qualifying operations within ninety days. The parties filed competing summary-judgment motions. The district court granted the defendants' motions, declared the lease valid and in effect, and quieted title in favor of the defendants. The North Dakota Supreme Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must apply the proper interpretation of the lease and determine, based on the facts and circumstances over a reasonable period, whether the well produced in paying quantities and whether the lease terminated. Further proceedings are required because genuine issues of material fact preclude summary judgment.

CASES CITED

- Johnson v. Shield, 2015 ND 200, ¶ 6, 868 N.W.2d 368
- Hamilton v. Woll, 2012 ND 238, ¶ 9, 823 N.W.2d 754
- Tank v. Citation Oil & Gas Corp., 2014 ND 123, ¶¶ 9-12, 848 N.W.2d 691
- Egeland v. Continental Resources, Inc., 2000 ND 169, ¶ 10, 616 N.W.2d 861
- Rolla v. Tank, 2013 ND 175, ¶ 7, 837 N.W.2d 907
- Sorum v. Schwartz, 344 N.W.2d 73, 77 n. 2 (N.D. 1984)
- Gypsy Oil Co. v. Marsh, 1926 OK 246, 121 Okla. 135, 248 P. 329, 333
- Garcia v. King, 139 Tex. 578, 164 S.W.2d 509, 511-13 (1942)
- Goodwin v. Wright, 163 W. Va. 264, 255 S.E.2d 924, 925-26 (1979)
- Sorum v. Schwartz, 411 N.W.2d 652, 654 (N.D. 1987)
- Clifton v. Koontz, 160 Tex. 82, 325 S.W.2d 684, 690-91 (1959)
- Cannon v. Sun-Key Oil Co., Inc., 117 S.W.3d 416, 421 (Tex. App. 2003)
- Feland v. Placid Oil Co., 171 N.W.2d 829, 835 (N.D. 1969)
- Olson v. Schwartz, 345 N.W.2d 33, 38-39 (N.D. 1984)