

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Lake Nacimiento Ranch Co. v. County of San Luis Obispo

830 F.2d 977 (9th Cir. 1987) · No. Nos. 85-6475, 86-5858 · Decided October 30, 1987

SUMMARY

The Ninth Circuit affirmed summary judgment for San Luis Obispo County in a property owner's facial and as-applied regulatory takings challenge to county land-use restrictions. The court held that the as-applied claim was not ripe because the owner had not obtained a final development determination or demonstrated futility, and that the facial challenge was unsupported. It also rejected the owner's procedural due process claims based on an allegedly conflicted county supervisor and upheld the denial of the County's request for attorneys' fees.

CASE DETAILS

COURT	United States Court of Appeals for the Ninth Circuit
WRITING FOR THE COURT	Cynthia Holcomb Hall; John T. Noonan; Procter Hug Jr. Thompson
JURISDICTION	Federal
DECIDED	October 30, 1987
DOCKET	Nos. 85-6475, 86-5858
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Ranch appealed summary judgment for the County on its regulatory-takings and due-process claims. The County cross-appealed the district court's denial of attorneys' fees under 42 U.S.C. § 1988.
STANDARD OF REVIEW	Summary judgment and ripeness determinations were reviewed de novo; denial of attorneys' fees under 42 U.S.C. § 1988 was reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Lake Nacimiento Ranch Co. v. County of San Luis Obispo

TOPICS

- takings clause
- ripeness
- zoning
- section 1983
- procedural due process

PRACTICE AREAS

- constitutional law
- real estate
- municipal law
- civil rights
- appellate procedure

QUESTIONS PRESENTED

1. Whether the Ranch's as-applied regulatory-takings claim was ripe without a final and authoritative determination of the permissible development and without meaningful applications for a development plan and variance.
2. Whether the County's zoning restrictions were facially invalid as a taking because they failed to advance legitimate state interests or denied the Ranch economically viable uses of its property.
3. Whether the County could be liable under 42 U.S.C. § 1983 for procedural due process violations based solely on one supervisor's allegedly conflicted participation, absent evidence of an official municipal policy or custom.
4. Whether the availability of state-law remedies barred the Ranch's procedural due-process claim under § 1983.
5. Whether the district court abused its discretion by denying the County attorneys' fees under 42 U.S.C. § 1988.

HOLDINGS

1. An as-applied regulatory-takings claim is not ripe until the government has made a final and authoritative determination of the type and intensity of development legally permitted on the property and the plaintiff has established that available compensation is inadequate. The Ranch's informal proposal, without a meaningful development-plan application and variance application, did not satisfy that requirement.
2. The County's zoning restrictions were not facially invalid as a taking because the Ranch failed to show that the restrictions denied all beneficial or economically viable uses of the property, and the ordinance substantially advanced legitimate state interests.
3. A municipality is not liable under 42 U.S.C. § 1983 merely because an individual official participated in a decision while allegedly having a conflict of interest. The plaintiff must show that the deprivation resulted from an official municipal policy or custom, including a deliberate choice by an official with final policymaking authority on the relevant subject.
4. The Ranch's § 1983 procedural due-process claim was barred because California law provided an available procedure for redress of the alleged conflicted participation.
5. The court did not decide whether the Ranch could bring a direct cause of action under the Fourteenth Amendment because the issue was not clearly raised and the Ranch principally relied on § 1983.
6. The district court did not abuse its discretion in denying the County attorneys' fees because the Ranch's action was not shown to be groundless or without foundation.

KEY QUOTATIONS

"In order for an "as applied" regulatory taking claim to be ripe, a plaintiff must establish two components: (1) that the regulation has gone so far that it has "taken" plaintiff's property; and (2) that any compensation tendered for such taking is not "just."" (¶ 15)

“municipal liability under section 1983 attaches where--and only where--a deliberate choice to follow a course of action is made from among various alternatives by the official or officials responsible for establishing final policy with respect to the subject matter in question.” (¶ 26)

“The Ranch's "as applied" challenge is not ripe for consideration; its facial challenge is unsupported. The claim based upon conflict of interest fails under section 1983. Finally, the district court did not abuse its discretion in denying the County's request for attorneys' fees.” (¶ 39)

FACTUAL BACKGROUND

Lake Nacimiento Ranch Company owned approximately 1,500 acres bordering Lake Nacimiento that it had held for investment and leased for grazing and equestrian purposes. County land-use amendments reduced residential densities and changed most of the property from a Recreation designation to the more restrictive Rural Lands designation, which nevertheless permitted single-family residences, agricultural uses, and numerous special uses. The County denied the Ranch's request to redesignate 800 acres as Recreation after a supervisor affiliated with a neighboring recreational club voted against the request without disclosing the alleged conflict of interest. The Ranch had submitted only an informal development proposal and had not applied for a variance.

PROCEDURAL HISTORY

The Ranch sued after the County reduced residential densities, reclassified most of the Ranch's undeveloped lakefront property, and denied the Ranch's requested General Plan amendment. The district court granted the County summary judgment on the takings and due-process claims and denied the County attorneys' fees. The Ninth Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- Martino v. Santa Clara Valley Water District, 703 F.2d 1141 (9th Cir. 1983)
- Ashton v. Cory, 780 F.2d 816 (9th Cir. 1986)
- Twentieth Century-Fox Film Corp. v. MCA, Inc., 715 F.2d 1327 (9th Cir. 1983)
- Celotex Corp. v. Catrett, 477 U.S. 317 (1986)
- Assiniboine and Sioux Tribes v. Board of Oil and Gas, 792 F.2d 782 (9th Cir. 1986)
- MacDonald, Sommer & Frates v. Yolo County, 477 U.S. 340 (1986)
- Kinzli v. City of Santa Cruz, 818 F.2d 1449 (9th Cir. 1987), modified, 830 F.2d 968 (9th Cir. 1987)
- Williamson County Regional Planning Commission v. Hamilton Bank, 473 U.S. 172 (1985)
- American Savings and Loan Ass'n v. County of Marin, 653 F.2d 364 (9th Cir. 1981)
- Agins v. Tiburon, 447 U.S. 255 (1980)
- Keystone Bituminous Coal Ass'n v. DeBenedictis, 480 U.S. 470 (1987)
- Hodel v. Virginia Surface Mining & Reclamation Ass'n, 452 U.S. 264 (1981)

- *Cormier v. County of San Luis Obispo*, 161 Cal. App. 3d 850, 207 Cal. Rptr. 880 (1984)
- *William C. Haas v. City and County of San Francisco*, 605 F.2d 1117 (9th Cir. 1979)
- *Penn Central Transportation Co. v. New York City*, 438 U.S. 104 (1978)
- *Monell v. New York City Department of Social Services*, 436 U.S. 658 (1978)
- *Pembaur v. City of Cincinnati*, 475 U.S. 469 (1986)
- *Parratt v. Taylor*, 451 U.S. 527 (1981)
- *Mann v. City of Tucson*, 782 F.2d 790 (9th Cir. 1986)
- *McRorie v. Shimoda*, 795 F.2d 780 (9th Cir. 1986)
- *Hamilton Bank*, 473 U.S. 172 (1985)
- *Mt. Healthy City School District Board of Education v. Doyle*, 429 U.S. 274 (1977)
- *Aldinger v. Howard*, 427 U.S. 1 (1976)
- *Arizona v. Cook Paint & Varnish Co.*, 541 F.2d 226 (9th Cir. 1976)
- *Rainbow Pioneer No. 44-18-04A v. Hawaii-Nevada Investment*, 711 F.2d 902 (9th Cir. 1983)
- *Nelson v. International Paint Co.*, 716 F.2d 640 (9th Cir. 1983)
- *Addison v. State*, 21 Cal. 3d 313, 146 Cal. Rptr. 224, 578 P.2d 941 (1978)
- *Hensley v. Eckerhart*, 461 U.S. 424 (1983)
- *Christiansburg Garment Co. v. EEOC*, 434 U.S. 412 (1978)
- *First English Evangelical Lutheran Church of Glendale v. County of Los Angeles*, 482 U.S. 304 (1987)

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