SUPREME COURT OF VIRGINIA

Russell v. Commonwealth Transportation Commissioner, 261 Va. 617

544 S.E.2d 311 (2001) · No. Record No. 001558 · Decided April 20, 2001

SUMMARY

The Supreme Court of Virginia considered whether a prior tax assessment of condemned property could be used to impeach the property owners' appraiser. The Court held that, because the tax valuation and trial valuation both purported to reflect fair market value and differed substantially, the prior valuation was relevant impeachment evidence and its admission was within the trial court's discretion. The judgment confirming the condemnation commissioners' valuation was affirmed.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Whiting, Senior Justice; Carrico, Chief Justice; Lacy, Justice; Hassell, Justice; Keenan, Justice; Koontz, Justice; Lemons, Justice
JURISDICTION	Virginia
DECIDED	April 20, 2001
DOCKET	Record No. 001558
DISPOSITION	affirmed
PROCEDURAL POSTURE	Landowners appealed a trial court judgment confirming commissioners' valuation of property condemned in an eminent-domain proceeding. They challenged the admission of a prior tax assessment of the property as impeachment evidence against their valuation expert.
STANDARD OF REVIEW	Abuse of discretion; the scope of cross-examination and testimonial impeachment is committed largely to the trial court's discretion and will not be disturbed absent a plain abuse.
PRECEDENTIAL VALUE	Published Virginia Supreme Court opinion; precedential
PARTIES	Johnny C. Russell, Phyllis Russell v. Commonwealth Transportation Commissioner of Virginia

TOPICS

eminent domain · expert testimony · impeachment · evidence · standard of review

PRACTICE AREAS

eminent domain · evidence · expert testimony · appellate procedure

QUESTIONS PRESENTED

1. Whether a prior tax-assessment valuation of condemned property may be admitted to impeach the credibility of an expert who later values the same property for purposes of determining just compensation.
2. Whether the trial court abused its discretion by permitting cross-examination concerning the prior tax valuation.

HOLDINGS

1. A prior tax-assessment valuation of the same property may be used as impeachment evidence when the record shows that the valuation was based on fair market value and presents an inconsistency bearing on the credibility of the expert's later valuation testimony.
2. The trial court did not abuse its discretion by allowing the Commonwealth to cross-examine Stacy concerning his firm's prior tax valuation of the condemned parcel.

KEY QUOTATIONS

> *"Hence, we find no abuse of the trial court's discretion in permitting this impeachment evidence on cross-examination."* (261 Va. at 621)

> *"Accordingly, the judgment of the trial court will be Affirmed."* (261 Va. at 621)

FACTUAL BACKGROUND

The Russells' 39.125-acre parcel in Lee County was condemned by the Commonwealth. Their expert, Ed Stacy, testified that the property's fair market value as of the condemnation date was $12,538 per acre. On cross-examination, the Commonwealth elicited that Stacy's firm had previously valued the same parcel at $1,000 per acre for county tax-assessment purposes. Stacy explained that the earlier appraiser had not known about the property's relationship to a larger tract, a nearby highway, or a scenic easement.

PROCEDURAL HISTORY

The Commonwealth initiated eminent-domain proceedings to acquire a 39.125-acre parcel owned by the Russells. The condemnation commissioners valued the parcel at $5,140 per acre, and the trial court overruled the Russells' exceptions and confirmed the commissioners' report. The Supreme Court of Virginia affirmed.

DISPOSITION

affirmed

CASES CITED

- Lynch v. Commonwealth Transportation Commissioner, 247 Va. 388, 393, 442 S.E.2d 388, 389, 391 (1994)
- R. Cross v. City of Newport News, 217 Va. 202, 206, 228 S.E.2d 113, 116 (1976)
- Skyline Swannanoa v. Nelson County, 186 Va. 878, 882, 44 S.E.2d 437, 439 (1947)
- Breeden v. Roberts, 258 Va. 411, 415-16, 518 S.E.2d 834, 837 (1999)
- Spruill v. Commonwealth, 221 Va. 475, 485, 271 S.E.2d 419, 425 (1980)
- Commercial Distributors, Inc. v. Blankenship, 240 Va. 382, 394, 397 S.E.2d 840, 847 (1990)
- Neblett v. Hunter, 207 Va. 335, 340, 150 S.E.2d 115, 119 (1966)
- Norfolk & Western Railway Co. v. Commonwealth, 211 Va. 692, 695, 179 S.E.2d 623, 625 (1971)
- Southern Railway Co. v. Commonwealth, 211 Va. 210, 214, 176 S.E.2d 578, 581 (1970)
- City of Roanoke v. Gibson, 161 Va. 342, 347, 170 S.E. 723, 725 (1933)
- Appalachian Power Co. v. Anderson, 212 Va. 705, 708, 187 S.E.2d 148, 152 (1972)
- Appalachian Electric Power Co. v. Gorman, 191 Va. 344, 354, 61 S.E.2d 33, 38 (1950)
- Anderson v. Chesapeake Ferry Co., 186 Va. 481, 490, 43 S.E.2d 10, 15 (1947)
- Board of Supervisors v. Telecommunications Industries, Inc., 246 Va. 472, 477, 436 S.E.2d 442, 445 (1993)
- Smith v. City of Covington, 205 Va. 104, 108, 135 S.E.2d 220, 222-23 (1964)