

SUPREME COURT OF UTAH

Delta Canal Co. v. Frank Vincent Family Ranch, LC

2013 UT 54 (2013) · No. No. 20120470 · Decided August 16, 2013

SUMMARY

The Utah Supreme Court reverses summary judgment in a dispute over partial forfeiture and abandonment of a water right. The court holds that Utah law permitted partial forfeiture before the 2002 statutory amendment, construes the statutory shortage exception as codifying the physical-causes exception, and explains that abandonment is a separate common-law claim requiring intent to relinquish.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Justice Durham; Chief Justice Durrant; Associate Chief Justice Nehring; Justice Parrish; Justice Lee
JURISDICTION	Utah
DECIDED	August 16, 2013
DOCKET	No. 20120470
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The irrigation companies appealed from a district court order granting Frank Vincent Family Ranch, LC summary judgment on claims alleging partial forfeiture and partial abandonment of a water right.
STANDARD OF REVIEW	Summary judgment is reviewed for correctness.
PRECEDENTIAL VALUE	Published Utah Supreme Court opinion; precedential.
PARTIES	Delta Canal Co., Melville Irrigation Co., Abraham Irrigation Co., Deseret Irrigation Co., Central Utah Water Co. v. Frank Vincent Family Ranch, LC

TOPICS

- statutory interpretation
- plain meaning rule
- legislative intent
- real estate

PRACTICE AREAS

- water rights
- real estate
- statutory interpretation
- summary judgment

QUESTIONS PRESENTED

1. Whether Utah's pre-2002 forfeiture statute permitted partial forfeiture of a water right.
2. Whether the post-2002 statutory exception for periods when a water source fails to yield sufficient water bars forfeiture whenever the appropriator does not receive the full water right.
3. Whether abandonment of a water right is a statutory claim subject to the forfeiture statute or an independent common-law claim requiring intent to relinquish.
4. How Vincent's water right should be measured for purposes of forfeiture analysis.
5. What standards govern the forfeiture and abandonment claims on remand, including materiality, available water, early-season water, and beneficial use of natural habitat.

HOLDINGS

1. Utah's pre-2002 Forfeiture Statute permitted forfeiture of a water right either in whole or in part because partial forfeiture is inherent in the statutory principle that beneficial use is the basis, measure, and limit of water rights.
2. Utah Code section 73-1-4(3)(f)(i) codifies the common-law physical-causes exception; it protects an appropriator from forfeiture only to the extent the failure to use water resulted from water being unavailable for physical reasons beyond the appropriator's control.
3. Abandonment of a water right is an independent common-law claim, distinct from statutory forfeiture, and requires proof that the owner intentionally relinquished the right; abandonment has no fixed statutory time element.
4. For purposes of the forfeiture analysis, Vincent's water right consists of a maximum diversion rate of twenty-two cubic feet per second and a volume allowance of 5,000 acre-feet.
5. Forfeiture analysis should focus on whether the appropriator failed to beneficially use material amounts of the volume allowance during the applicable consecutive statutory period, considering available water and reasonable, beneficial use rather than merely the number of acres irrigated.

KEY QUOTATIONS

“We hold that the only plausible reading of the Forfeiture Statute, when viewed in conjunction with the Beneficial Use Statute, is that a water right may be forfeited either in whole or in part.” (¶ 28)

“Thus, we reject the district court’s interpretation and hold that this exemption is a codification the common-law physical-causes exception we applied in Rocky Ford.” (¶ 30)

“Unlike forfeiture, abandonment has no time element. Instead, it has an intent requirement.” (¶ 35)

“The central question in any forfeiture proceeding is whether the appropriator used all of its water allowance in a reasonable manner and for a beneficial purpose.” (¶ 41)

“A water right is maintained only to the extent it is used efficiently and for a proper purpose.” (¶ 45)

FACTUAL BACKGROUND

The parties held water rights on the Sevier River system. A 1936 general adjudication awarded the predecessor of Frank Vincent Family Ranch, LC a water right allowing diversion of twenty-two cubic feet per second during the irrigation season, with a storage component, and a proposed determination indicated annual use of 5,000 acre-feet. Vincent purchased the farm and water right in 1998 and used the property for crops and a commercial bird-hunting operation. The irrigation companies alleged that Vincent and its predecessor had used materially less than the full water right during the relevant statutory period, while Vincent asserted that shortages and the nature of the land prevented full cultivation and use.

PROCEDURAL HISTORY

The irrigation companies filed an action in the Fourth District Court in Fillmore, Utah, alleging that Vincent and its predecessor had partially forfeited and abandoned a portion of a Sevier River water right through nonuse. The district court held that Utah law did not permit partial forfeiture or partial abandonment before 2002 and that a post-2002 statutory exception barred the claims because Vincent did not receive an uninterrupted full flow of its water right. The Utah Supreme Court reversed and remanded for reconsideration under the legal standards announced in the opinion.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reconsider the pre-2002 and post-2002 partial-forfeiture claims under the beneficial-use, physical-causes, materiality, and volume-based standards announced by the court; reconsider the abandonment claim as an independent common-law claim requiring intentional relinquishment; and determine the relevant factual issues concerning available water, early-season water, and whether irrigation of natural habitat was beneficial.

CASES CITED

- Green River Canal Co. v. Olds, 2004 UT 106, 110 P.3d 666
- Basic Research, LLC v. Admiral Ins. Co., 2013 UT 6, 297 P.3d 578
- Eskelsen v. Town of Perry, 819 P.2d 770, 775 n.9 (Utah 1991)
- Becker v. Marble Creek Irrigation Co., 49 P. 892, 893 (Utah 1897)
- Rocky Ford Irrigation Co. v. Kents Lake Reservoir Co., 135 P.2d 108, 111-13 (Utah 1943)
- Platt v. Town of Torrey, 949 P.2d 325, 331-32 (Utah 1997)
- State v. Harker, 2010 UT 56, 240 P.3d 780
- R & R Indus. Park, L.L.C. v. Utah Prop. & Cas. Ins. Guar. Ass'n, 2008 UT 80, 199 P.3d 917
- Butler v. Pinecrest Pipeline Operating Co., 2004 UT 67, 98 P.3d 1
- Carbon Canal Co. v. Sanpete Water Users Ass'n, 425 P.2d 405, 407 (Utah 1967)
- United States v. Alpine Land & Reservoir Co., 697 F.2d 851, 854 (9th Cir. 1983)
- Neubert v. Yakima-Tieton Irrigation Dist., 814 P.2d 199, 204 (Wash. 1991) (en banc)
- Tulare Irrigation Dist. v. Lindsay-Strathmore Irrigation Dist., 45 P.2d 972, 996-97 (Cal. 1935)

- State Dep't of Ecology v. Grimes, 852 P.2d 1044, 1051-54 (Wash. 1993) (en banc)
- Green River Canal Co. v. Thayn, 2003 UT 50, 84 P.3d 1134
- In re Water Rights of Escalante Valley Drainage Area, 348 P.2d 679, 682 (Utah 1960)
- Smith v. Hawkins, 52 P. 139, 140 (Cal. 1898)
- Hagerman Water Right Owners, Inc. v. State, 947 P.2d 400, 407-08 (Idaho 1997)
- In re Musselshell River Drainage Area, 840 P.2d 577, 579 (Mont. 1992)
- In re Birdwood Irrigation Dist., 46 N.W.2d 884, 888 (Neb. 1951)
- Wellsville E. Field Irrigation Co. v. Lindsay Land & Livestock Co., 137 P.2d 634, 643 (Utah 1943)
- Rich County-Otter Creek Irrigation Co. v. Lamborn, 361 P.2d 407, 409 (Utah 1961)
- Butler, Crockett & Walsh Dev. Corp. v. Pinecrest Pipeline Operating Co., 2004 UT 67, ¶¶ 54-55, 98 P.3d 1

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