

SUPREME COURT OF ARKANSAS

City of Rockport v. City of Malvern

155 S.W.3d 9, 356 Ark. 393 (2004) · No. No. 03-855 · Decided March 11, 2004

SUMMARY

The Supreme Court of Arkansas affirmed approval of annexations transferring certain properties from Rockport to Malvern under Act 779 of 1999. The court held that Rockport was bound by the parties’ stipulation of facts and had not demonstrated that it provided or would provide requested municipal services, particularly sanitary sewer service, within a reasonable time.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Robert L. Brown
JURISDICTION	Arkansas
DECIDED	March 11, 2004
DOCKET	No. 03-855
DISPOSITION	affirmed
PROCEDURAL POSTURE	Rockport appealed a circuit-court judgment approving Malvern's annexation of landowners' properties under Act 779 of 1999 and finding that Rockport had not complied with the statutory requirements for providing or taking substantial steps to provide requested municipal services.
STANDARD OF REVIEW	The validity of the stipulation of facts was reviewed under the clearly erroneous standard applicable to findings of fact made during a bench trial. The Supreme Court deferred to the circuit court's superior position to assess witness credibility and resolve conflicting testimony.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential
PARTIES	City of Rockport, Certain taxpayers and citizens of the City of Rockport v. City of Malvern, Landowners whose property was annexed

TOPICS

- municipal law
- statutory interpretation
- appellate procedure
- standard of review
- civil procedure

PRACTICE AREAS

municipal law

administrative and local government law

civil procedure

QUESTIONS PRESENTED

1. Whether the circuit court clearly erred in finding that the parties entered into a binding stipulation of facts.
2. Whether the landowners' properties were eligible for detachment from Rockport and annexation into Malvern under Arkansas Code Annotated sections 14-40-2001 through 14-40-2005.
3. Whether Act 779 of 1999 requires a municipality to actually provide requested services or merely make them available.
4. Whether Rockport demonstrated compliance with Act 779 by committing to take substantial steps toward providing the requested services.
5. Whether sewer service constituted a necessary municipal service under Act 779.

HOLDINGS

1. The circuit court did not clearly err in finding that Rockport, through its former counsel and with the assent of its mayor and council members, entered into a binding stipulation of facts.
2. Sewer service is a necessary municipal service within Act 779 and is manifestly necessary to maximize the use and value of property.
3. Act 779 requires the municipality in which the property is located to commit to taking substantial steps toward making the requested services available and to continue taking steps demonstrating a consistent commitment to provide the services within a reasonable time; a bare or indefinite commitment is insufficient.

KEY QUOTATIONS

"As the testimony reflects that the Mayor and City Council of Rockport, absent one member, were present at the meeting and did not voice any concern or disagreement with regard to Jackson's actions, we agree with the circuit court that Jackson was clearly operating within the ambit of his authority when he entered into the stipulation of facts." (155 S.W.3d at 13)

"Act 779 defines "services" as "electricity, water, sewer, fire protection, police protection, drainage and storm water management, or any other offering by the municipality that materially affects a landowner's ability to develop, use, or expand the uses of the landowner's property."" (155 S.W.3d at 14)

"In short, because Rockport was unable to demonstrate a commitment to providing the service within a reasonable time, we cannot say that the circuit court clearly erred in concluding that Rockport had not met its burden of proof of showing compliance with Act 779." (155 S.W.3d at 15)

FACTUAL BACKGROUND

Landowners whose property was located in Rockport sought services including sewer, water, police, fire, animal-control, street-department, and street-sweeper services, asserting that Rockport did not provide them and that Malvern did. Rockport committed to taking substantial steps toward providing the services, but it never had a sanitary sewer system and did not commit to providing sewer service within a reasonable time. Malvern committed to making the requested services available and adopted resolutions accepting the properties into its corporate limits. The parties stipulated to the relevant facts, and the circuit court approved the annexations.

PROCEDURAL HISTORY

Landowners whose property was located in Rockport filed statements seeking municipal services and subsequently requested annexation into adjoining Malvern under Act 779 of 1999. Rockport filed a declaratory-judgment action challenging Malvern's annexation resolutions. The circuit court dismissed the individual plaintiffs for lack of standing, allowed Rockport to challenge statutory compliance, enforced a stipulation of facts, approved the annexations, and found that Rockport had not provided or taken adequate steps to provide the requested services within a reasonable time. The Supreme Court of Arkansas affirmed.

DISPOSITION

affirmed

CASES CITED

- Haney v. Holt, 179 Ark. 403, 16 S.W.2d 463 (1929)
- Lee v. Daniel, 350 Ark. 466, 91 S.W.3d 464 (2002)
- Pyle v. Sayers, 344 Ark. 354, 39 S.W.3d 774 (2001)
- Myrick v. Myrick, 339 Ark. 1, 2 S.W.3d 60 (1999)
- McCombs v. McCombs, 227 Ark. 1, 295 S.W.2d 774 (1956)
- City of Maumelle v. Jeffrey Sand Co., 353 Ark. 686, 120 S.W.3d 55 (2003)

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