

SUPREME COURT OF UTAH

Salt Lake City v. East Jordan Irrigation Co., 40 Utah 126

121 P. 592 (1911) · Decided December 26, 1911

SUMMARY

Salt Lake City sought to condemn the right to enlarge and use an existing irrigation canal owned by East Jordan Irrigation Company. The court upheld the statute authorizing canal enlargement and concluded that the proposed use was public and necessary, but reversed the damages judgment because damages had been measured improperly and included injuries to individual water users who were not parties. It held that compensation should be limited to actual damage to the corporation’s property or use, including the value of any land taken and proven costs or impairment caused by the enlargement.

CASE DETAILS

COURT	Supreme Court of Utah
WRITING FOR THE COURT	Frick, C. J.; McCaeitt, J.; Straup, J.
JURISDICTION	Utah
DECIDED	December 26, 1911
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Salt Lake City sought to condemn or obtain the right to enlarge an irrigation canal owned by East Jordan Irrigation Co. The district court found a public use and necessity, authorized the enlargement, and entered judgment on a jury verdict awarding the irrigation company \$75,000 in damages. Salt Lake City appealed the damages award, and the irrigation company cross-appealed the public-use, necessity, statutory-authority, and damages rulings.
STANDARD OF REVIEW	The court reviewed the legal measure of just compensation and the trial court's instructions and evidentiary rulings de novo; it treated factual findings concerning public use and necessity as supported when backed by ample evidence.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Salt Lake City v. East Jordan Irrigation Co.

TOPICS

eminent domain municipal

public utilities

municipal law

takings clause

damages

PRACTICE AREAS

eminent domain

municipal law

public utilities

constitutional law

damages

QUESTIONS PRESENTED

1. Whether Salt Lake City's proposed enlargement and joint use of East Jordan Irrigation Company's canal constituted a public use.
2. Whether Comp. Laws Utah 1907, section 1288x22, was unconstitutional because it did not provide for just compensation.
3. What measure of just compensation governed the city's enlargement and joint use of the canal.
4. Whether the irrigation company could recover damages suffered by individual stockholders and water users who were not parties to the proceeding.
5. Whether the damages judgment and trial instructions required reversal and a new trial.

HOLDINGS

1. Salt Lake City's proposed use of the enlarged canal to improve water delivery to its inhabitants was a public use.
2. A proceeding under Comp. Laws Utah 1907, section 1288x22, to enlarge another's irrigation canal is governed by principles applicable to eminent domain.
3. Comp. Laws Utah 1907, section 1288x22, complied with Utah Constitution article I, section 22, because it required compensation for damages caused by the enlargement.
4. Just compensation is measured by the money value of the canal owner's actual loss or damage caused by the taking, enlargement, or interference with use, not by the value of the benefit gained by the condemning city.
5. The irrigation company could recover only damages suffered by it as a corporate entity; it could not recover damages belonging to individual stockholders or water users for injuries to their private rights.
6. If the canal owner retains possession and use of the canal, no property is actually taken, and the enlargement causes no additional costs, expenses, or impairment of use, the owner may recover only nominal damages.
7. Recoverable damages may include the value of land actually taken or damaged, the cost or loss associated with diverting appliances that must be changed, corporate losses from temporary interference with water distribution, the substantial value of unused wider canal portions appropriated for the city's use, and any diminution in the canal's usable value for the company's existing purposes.

KEY QUOTATIONS

"The proceeding which we are now reviewing, while ostensibly based upon section 1288x22, supra, is, nevertheless, controlled by the principles involved in the exercise of the right of eminent domain" (135)

“Where, as in this case, property is not taken, just compensation is made when the owner receives compensation for whatever damages, if any, he sustains by having the use he is making of the property interfered with.” (142-143)

“In condemnation proceedings the question, under no circumstances, can be what has the appropriator gained; but it is, what has he from whom the property is taken or in whose hands it is damaged lost, when such loss is expressed in dollars and cents?” (145)

“All questions except such as may have some bearing upon or may assist in ascertaining the-foregoing results should be eliminated from the case.” (146)

FACTUAL BACKGROUND

East Jordan Irrigation Co. had owned and operated a roughly nineteen-mile irrigation canal for more than thirty years, using it to convey water to landowners for irrigation and domestic purposes. Salt Lake City owned a separate, lower-elevation canal but sought to enlarge East Jordan's canal from 170 to 320 cubic feet per second and extend it so the city could improve water delivery to its inhabitants. The district court found the proposed use public and necessary, while the jury awarded \$75,000 based principally on alleged impairment of domestic-water distribution and interference with the company's right of way.

PROCEDURAL HISTORY

The district court authorized Salt Lake City to enter upon and enlarge East Jordan Irrigation Company's canal under Comp. Laws Utah 1907, section 1288x22. A jury awarded the company \$75,000, and the court entered judgment on that verdict. The Utah Supreme Court affirmed the public-use and necessity determinations but reversed the judgment because the damages case had been tried under an incorrect measure of compensation, remanding for a new trial limited to damages.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the judgment and remand to the District Court of Salt Lake County for a new trial on the question of damages only. The trial court must determine compensation under the stated rules, limiting recovery to the irrigation company's actual corporate losses and excluding damages suffered solely by individual stockholders or water users.

CASES CITED

- Nash v. Clark, 27 Utah 158, 75 P. 371, 1 L.R.A. (N.S.) 208, 101 Am. St. Rep. 953, 1 Ann. Cas. 300
- Tanner v. Provo, etc. Canal Co., 121 P. 584
- Canadian Pac. Ry. Co. v. Moosehead Tel. Co., 106 Me. 368, 76 A. 885, 29 L.R.A. (N.S.) 103, 20 Ann. Cas. 721
- Postal Telegraph Co. v. Oregon Short Line Railroad Co., 23 Utah 474, 65 P. 735

- Salt Lake City v. Salt Lake City Water, etc., Power Co., 24 Utah 249, 67 P. 672
- Monongahela Navigation Co. v. United States, 148 U.S. 312
- Pennsylvania Ry. Co. v. B. & O. Ry. Co., 60 Md. 263

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