SUPREME COURT OF SOUTH DAKOTA

Great Western Bank v. H & E Enterprises, LLP

2007 SD 38 (2007) · No. No. 24250 · Decided April 11, 2007

SUMMARY

The South Dakota Supreme Court addressed whether a trial court determining the fair and reasonable value of mortgaged property under SDCL 21-47-16 must accept one of the competing expert valuations. The court held that the fact finder may weigh, accept, or reject expert testimony and is not bound to adopt either expert's opinion. Because the trial court applied an erroneous legal standard, the valuation ruling was reversed and remanded for a new hearing.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Konenkamp, Justice; Gilbertson, Chief Justice; Sabers, Justice; Meierhenry, Justice
JURISDICTION	South Dakota
DECIDED	April 11, 2007
DOCKET	No. 24250
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a mortgage-foreclosure proceeding in which the circuit court determined the fair and reasonable value of the mortgaged property for purposes of calculating any deficiency.
STANDARD OF REVIEW	The question whether the circuit court erred in declaring that it was bound by expert opinion was reviewed de novo. Findings made under an erroneous view of the law or incorrect legal standard receive no deference.
PRECEDENTIAL VALUE	Published South Dakota Supreme Court opinion; precedential.
PARTIES	H & E Enterprises, LLP, Phillip Hines v. Great Western Bank

TOPICS

foreclosure · commercial litigation · real estate · expert testimony · evidence

PRACTICE AREAS

real estate | foreclosure | commercial litigation | evidence | remedies

QUESTIONS PRESENTED

1. Whether a court determining the fair and reasonable value of mortgaged property under SDCL 21-47-16 is bound to accept the valuation of one of the parties' experts.
2. Whether the circuit court's valuation ruling required reversal because it was made under the erroneous legal premise that the court could not determine a value between the competing expert valuations.

HOLDINGS

1. A fact finder is not required to accept all or any part of an expert's opinion, and SDCL 21-47-16 does not require the court to accept one expert's valuation over another.
2. The valuation ruling must be reversed and remanded because the circuit court expressly determined the value under the erroneous premise that it was bound by expert testimony.

KEY QUOTATIONS

> *"As the trier of fact, the circuit court was permitted to weigh and evaluate the expert opinions with their supporting data and take such parts as it saw fit."* (¶10)

> *"Therefore, we reverse the court's ruling and direct the court to determine the fair and reasonable value of the property consistent with the correct legal standards."* (¶13)

FACTUAL BACKGROUND

H & E Enterprises, LLP defaulted on a loan secured by a mortgage on a commercial building and real property known as the Mason's Building in Madison, South Dakota. Great Western Bank, which had assumed the loan, obtained summary judgment for the loan balance and sought a determination of the property's value to establish any deficiency. The parties presented substantially different valuation evidence: the lender's expert valued the property at $45,000, while the defendants' expert valued it between $75,000 and $85,000, and a county official testified to a total tax-assessed value of $117,500.

PROCEDURAL HISTORY

Great Western obtained summary judgment for the amount due on the loan and then sought a judicial determination of the property's value under SDCL 21-47-16. After hearing competing expert valuations, the circuit court adopted the lender's $45,000 valuation, stating that it was bound by expert testimony. The defendants appealed, arguing that the court had erroneously believed it could not determine a value different from the experts' opinions.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The circuit court must conduct a new hearing and determine the fair and reasonable value of the property under the correct legal standards, exercising its own judgment as fact finder while weighing and evaluating the expert opinions and supporting evidence.

CASES CITED

- O'Bryan v. Ashland, 2006 SD 56, ¶11, 717 NW2d 632, 636
- Sauer v. Tiffany Laundry & Dry Cleaners, 2001 SD 24, ¶14, 622 NW2d 741, 745
- Lewton v. McCauley, 460 NW2d 728, 732 (SD 1990)
- Santa Clara County Flood Control and Water Conservation Dist. v. Freitas, 177 CalApp2d 264, 268 (CalCtApp 1960)
- Pullman-Standard v. Swint, 456 US 273, 287, 102 SCt 1781, 1789, 72 LEd 66 (1982)
- Vinick v. United States, 205 F3d 1, 6 (1st Cir. 2000)

INSTRUCTIONS FOR AN AI ASSISTANT