

SUPREME COURT OF VIRGINIA

Bethel Investment Company v. City of Hampton

636 S.E.2d 466 (Va. 2006) · No. Record No. 060043 · Decided November 3, 2006

SUMMARY

The Supreme Court of Virginia held that, in a common-law action for damages, a party who demands a jury trial is entitled to have a disputed factual issue concerning when the statute of limitations began to run decided by a jury. The court concluded that the City of Hampton failed to present sufficient evidence that Bethel Investment Company's claims accrued more than five years before filing. It reversed the dismissal based on the statutes of limitations and the municipal notice requirement and remanded for trial on all issues.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Senior Justice Charles S. Russell; Chief Justice Hassell; Justice Lacy; Justice Keenan; Justice Kinser; Justice Lemons; Justice Agee; Senior Justice Russell
JURISDICTION	Virginia
DECIDED	November 3, 2006
DOCKET	Record No. 060043
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Bethel appealed the dismissal with prejudice of its motion for judgment after the trial court sustained the City's pleas of the statutes of limitations and its motion to dismiss under Code § 8.01-222.
STANDARD OF REVIEW	The court reviewed whether the trial court erred as a matter of law by resolving a disputed accrual fact without the demanded jury and whether the evidence was legally sufficient to support the finding that the claims accrued outside the applicable limitation periods.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Virginia; precedential.
PARTIES	Bethel Investment Company v. City of Hampton

TOPICS

[statute of limitations](#)[affirmative defenses](#)[civil procedure](#)[wetlands](#)[municipal law](#)

PRACTICE AREAS

civil procedure

statute of limitations

municipal law

torts

environmental law

QUESTIONS PRESENTED

1. Whether the time when Bethel's property first suffered damage, and thus when its causes of action accrued for statute-of-limitations purposes, was a disputed factual issue for a jury.
2. Whether the trial court could sustain the City's statutes-of-limitations defenses and Code § 8.01-222 motion based on the evidence presented.
3. Whether the City, having submitted the accrual issue to the trial court, was entitled to relitigate that issue on remand.

HOLDINGS

1. When accrual of a claim depends on a disputed fact concerning when property damage first occurred, a party who demands a jury is entitled to have that factual issue resolved by a jury in an action at law seeking damages.
2. The City failed to present sufficient evidence as a matter of law to establish that Bethel's cause of action accrued more than five years before the action was filed; therefore, the statutes-of-limitations defenses and related Code § 8.01-222 motion could not be sustained.
3. The City was not entitled to relitigate the accrual issue on remand because it had submitted the issue to the trial court and failed entirely to present sufficient evidence supporting the trial court's finding.

KEY QUOTATIONS

“The issue of the time at which Bethel's land first suffered damage as a result of the City's acts was one of disputed fact. Bethel, having demanded it, was entitled to a jury trial of that issue, and the trial court erred in denying it.” (636 S.E.2d at 469)

“Because the evidence supporting the trial court's finding was insufficient as a matter of law, the City is not entitled to relitigate that issue on remand.” (636 S.E.2d at 470)

FACTUAL BACKGROUND

The City of Hampton constructed weirs and berms on a mitigation parcel to convert uplands into wetlands as part of an agreement with the U.S. Army Corps of Engineers. Bethel Investment Company owned adjacent residentially zoned property and alleged that the City's construction raised the water table, converting more than 100 acres of its property into economically undevelopable wetlands. Bethel filed suit in 2004, asserting inverse condemnation, continuing trespass, continuous private nuisance, diversion of surface water, and negligence; the City argued that the claims accrued no later than 1999 and were barred by applicable limitation periods and the municipal notice requirement.

PROCEDURAL HISTORY

Bethel filed an action at law seeking damages from the City for alleged property damage caused by the City's conversion of an adjacent parcel into wetlands. The trial court heard evidence concerning when Bethel's alleged damage first occurred, determined that the claims accrued more than five years before suit was filed, sustained the City's limitations defenses and statutory-notice motion, and dismissed the action with prejudice. The Supreme Court of Virginia awarded Bethel an appeal, reversed, and remanded for trial on all issues.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for trial upon all issues raised by Bethel's motion for judgment. The City may not relitigate the accrual issue because its evidence was legally insufficient.

CASES CITED

- Stanardsville Vol. Fire Co. v. Berry, 229 Va. 578, 331 S.E.2d 466 (1985)
- Speet v. Bacaj, 237 Va. 290, 377 S.E.2d 397 (1989)
- Southern Railway Co. v. Watts, 134 Va. 503, 114 S.E. 736 (1922)
- Southern Railway Co. v. Leake, 140 Va. 438, 125 S.E. 314 (1924)
- Louisville & N.R. Co. v. Saltzer, 151 Va. 165, 144 S.E. 456 (1928)