

SUPREME COURT OF TENNESSEE

Ray D. Edwards, Sr., et al. v. Hallsdale-Powell Utility District, Knox County, Tennessee

115 S.W.3d 461 (Tenn. 2003) · Decided September 24, 2003

SUMMARY

The Tennessee Supreme Court held that an inverse condemnation claim requires a governmental defendant to perform a purposeful or intentional act that damages or interferes with private property. Because sewage backups into the plaintiffs' homes were allegedly caused by a clogged sewer line rather than an intentional act by Hallsdale-Powell Utility District, the court reversed the Court of Appeals and reinstated summary judgment on the inverse condemnation claim. The court also overruled *Betty v. Metropolitan Government of Nashville and Davidson County* to the extent it recognized negligent takings under the Tennessee Constitution.

CASE DETAILS

COURT	Supreme Court of Tennessee
WRITING FOR THE COURT	Janice M. Holder; Frank F. Drowota, III, C.J.; E. Riley Anderson, J.; Adolpho A. Birch, Jr., J.; William M. Barker, J.
JURISDICTION	Tennessee
DECIDED	September 24, 2003
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Tennessee Supreme Court reviewed the Court of Appeals' judgment vacating the trial court's partial summary judgment for Hallsdale-Powell Utility District on the plaintiffs' inverse-condemnation claim.
STANDARD OF REVIEW	Summary judgment is reviewed de novo with no presumption of correctness. The evidence is viewed in the light most favorable to the nonmoving party, with all reasonable inferences drawn in that party's favor.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Hallsdale-Powell Utility District v. Ray D. Edwards, Sr., Jewele C. Edwards, John F. Gazick, Helene K. Gazick

TOPICS

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municipal law

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether a governmental defendant must perform a purposeful or intentional act for damage to private property to constitute a taking under article I, section 21 of the Tennessee Constitution.
2. Whether the sewage backups presented a genuine issue of material fact sufficient to defeat HPUD's motion for summary judgment on the inverse-condemnation claim.
3. Whether the Court of Appeals' decision in *Betty v. Metropolitan Government of Nashville and Davidson County*, which treated the intentionality of a taking as irrelevant, should be overruled.

HOLDINGS

1. A governmental defendant must perform a purposeful or intentional act that results in damage to real property for a taking to exist under article I, section 21 of the Tennessee Constitution.
2. The plaintiffs did not establish a taking because they did not allege or show that HPUD performed a purposeful or intentional act causing the sewage backups; the record instead indicated that the sewer line became clogged, likely because of tree roots.
3. *Betty v. Metropolitan Government of Nashville and Davidson County* is overruled to the extent that it holds that a purposeful or intentional governmental act is unnecessary for a taking.

KEY QUOTATIONS

“To constitute a taking under either line of cases, however, some action on the part of the governmental defendant is required.” (466)

“We therefore hold that a governmental defendant must perform a purposeful or intentional act for a taking to exist.” (467)

“We hold that in an inverse condemnation claim the plaintiffs must prove that the governmental defendant performed a purposeful or intentional act that resulted in damage to their real property to show that a taking has occurred.” (467)

FACTUAL BACKGROUND

The plaintiffs were adjacent Knox County homeowners whose homes were flooded with raw sewage on March 31 and December 19, 1999, after a public sewer line became clogged. HPUD cleaned the homes and repaired damage after the first incident but did not perform further repairs after the second incident. The plaintiffs alleged that the sewage overflows permanently reduced their homes' market value and sought compensation under Tennessee's inverse-condemnation statute.

PROCEDURAL HISTORY

The plaintiffs sued HPUD for nuisance and, alternatively, inverse condemnation after sewage backups flooded their homes. The trial court granted HPUD partial summary judgment on the inverse-condemnation claim, and the plaintiffs received permission for an interlocutory appeal. The Court of Appeals vacated that ruling, concluding that evidence of a permanent loss in market value was sufficient to overcome summary judgment. The Tennessee Supreme Court granted review, reversed the Court of Appeals, and remanded the remaining claims to the trial court.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the trial court for further proceedings in accordance with the opinion, including proceedings on the plaintiffs' remaining claims under the Tennessee Governmental Tort Liability Act.

CASES CITED

- Owner-Operator Indep. Drivers Ass'n v. Concord EFS, Inc., 59 S.W.3d 63, 68 (Tenn. 2001)
- Webber v. State Farm Mut. Auto. Ins. Co., 49 S.W.3d 265, 269 (Tenn. 2001)
- Staples v. CBL & Assocs., Inc., 15 S.W.3d 83, 89 (Tenn. 2000)
- Jackson v. Metro. Knoxville Airport Auth., 922 S.W.2d 860, 861-865 (Tenn. 1996)
- Johnson v. City of Greeneville, 222 Tenn. 260, 435 S.W.2d 476, 478-480 (1968)
- Pleasant View Util. Dist. v. Vradenburg, 545 S.W.2d 733, 735 (Tenn. 1977)
- Ill. Cent. R.R. Co. v. Moriarity, 135 Tenn. 446, 186 S.W. 1053 (1916)
- Barron v. City of Memphis, 113 Tenn. 89, 80 S.W. 832-833 (1904)
- Betty v. Metro. Gov't of Nashville & Davidson County, 835 S.W.2d 1, 5-7 (Tenn. Ct. App. 1992)
- Knox County v. Moncier, 224 Tenn. 361, 455 S.W.2d 153, 154-155 (1970)
- PruneYard Shopping Ctr. v. Robins, 447 U.S. 74, 100 S. Ct. 2035, 64 L. Ed. 2d 741 (1980)
- Holtz v. Superior Court, 3 Cal. 3d 296, 90 Cal. Rptr. 345, 475 P.2d 441, 444-445 (1970)
- Marin v. City of San Rafael, 111 Cal. App. 3d 591, 168 Cal. Rptr. 750, 752-753 (1980)
- Nat'l By-Products, Inc. v. City of Little Rock, 323 Ark. 619, 916 S.W.2d 745, 747 (1996)
- Sullivant v. City of Oklahoma City, 940 P.2d 220, 225 (Okla. 1997)
- Vokoun v. City of Lake Oswego, 335 Or. 19, 56 P.3d 396, 400-402 (2002)
- Lizza v. City of Uniontown, 345 Pa. 363, 28 A.2d 916, 918 (1942)
- City of Abilene v. Smithwick, 721 S.W.2d 949, 951 (Tex. Ct. App. 1986)
- Robinson v. City of Ashdown, 301 Ark. 226, 783 S.W.2d 53 (Ark. 1990)
- Duncan v. Duncan, 672 S.W.2d 765, 768 (Tenn. 1984)
- Hall v. Bookout, 87 S.W.3d 80, 87 (Tenn. Ct. App. 2002)

