

SUPREME COURT OF CALIFORNIA

City of Santa Monica v. Gonzalez

43 Cal. 4th 905, 76 Cal. Rptr. 3d 483, 182 P.3d 1027 (Cal. 2008) · No. S145571 · Decided May 19, 2008

SUMMARY

The California Supreme Court considered whether an enforcement agency's failure to fully comply with the notice requirements of Health and Safety Code sections 17980.6 and 17980.7 invalidated the appointment of a receiver for substandard residential property. The court held that the alleged noncompliance did not invalidate the receivership orders and concluded that the trial court acted within its discretion in authorizing demolition rather than rehabilitation of the property. The judgment of the Court of Appeal was affirmed.

CASE DETAILS

COURT	Supreme Court of California
WRITING FOR THE COURT	Baxter, J.; George, C.J.; Kennard, J.; Werdegar, J.; Chin, J.; Moreno, J.; Corrigan, J.
JURISDICTION	California
DECIDED	May 19, 2008
DOCKET	S145571
DISPOSITION	affirmed
PROCEDURAL POSTURE	Gonzalez appealed orders appointing a receiver over his substandard residential property and authorizing the receiver to contract for demolition. The Court of Appeal affirmed both orders and denied his writ petition. The California Supreme Court granted review and affirmed.
STANDARD OF REVIEW	Receivership orders, including authorization to demolish substandard structures, are reviewed for abuse of discretion under a highly deferential standard. The reviewing court views the facts in the light most favorable to the order and considers whether the trial court exercised sound discretion in light of all surrounding facts and circumstances, fairness, justice, and the rights of the parties.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Guillermo Gonzalez v. City of Santa Monica

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QUESTIONS PRESENTED

1. Whether Health and Safety Code sections 17980.6 and 17980.7 require a notice to repair to inform the property owner that receivership may result from failure to correct violations.
2. Whether the City's failure to comply fully with the posting, mailing, and retaliation-notice requirements of Health and Safety Code section 17980.6 invalidated the receiver's appointment or the subsequent demolition order.
3. Whether the receiver's appointment violated Gonzalez's procedural due process rights.
4. Whether the trial court abused its discretion by authorizing the receiver to contract for demolition instead of rehabilitation.
5. Whether Health and Safety Code section 17980, subdivision (b)(1), gave Gonzalez an enforceable right to choose rehabilitation over demolition in the receivership proceeding.

HOLDINGS

1. Health and Safety Code sections 17980.6 and 17980.7 do not require a notice to repair to state that receivership may result from failure to correct the listed violations. The separate statutory requirement is timely service of the receivership petition on persons with recorded interests in the property.
2. The City's failure to post or mail the notice as specified in section 17980.6 and its omission of the tenant-retaliation information did not invalidate the receivership orders. Personal service substantially satisfied the owner-protection purpose of the posting requirement, while the mailing or posting-to-units and retaliation provisions primarily protected tenants and could not be invoked by Gonzalez to invalidate the receivership.
3. The trial court acted within its broad discretion in authorizing the receiver to contract for demolition of the unsafe and uninhabitable structure rather than rehabilitate it.

KEY QUOTATIONS

“Thus, while Gonzalez was statutorily entitled to notice that failure to correct the substandard condition of his property might result in the appointment of a receiver, the City duly afforded that notice when it served Gonzalez in accordance with section 17980.7(c).” (495)

“Because it would be unreasonable and a violation of due process to hold an owner accountable for building code violations and repair demands without providing adequate notice of such matters, it stands to reason that the conspicuous-posting requirement is an essential component of section 17980.6 (and, by implication, of section 17980.7), intended primarily for the protection of the owner.” (498)

“Where there is no evidence of fraud, unfairness, or oppression, the court has wide direction in approving the receiver's proposed actions.” (503)

“Considering all these circumstances, we hold the court acted well within its broad discretion, and clearly in the interest of fairness, justice and the rights of the respective parties and the public, in authorizing the receiver's pursuit of the demolition alternative.” (506)

FACTUAL BACKGROUND

Guillermo Gonzalez owned a Santa Monica property containing a house, a converted garage dwelling, rented bunk beds, and another rented living space. For more than 15 years the property remained in extremely unsafe and unsanitary condition, with extensive building, fire, housing, plumbing, and electrical-code violations despite prior civil and criminal proceedings, contempt findings, probation orders, and jail time. After personally serving Gonzalez with a notice identifying the violations and directing repairs, the City later found that none had been corrected and sought appointment of a receiver. The receiver concluded that demolition was less costly and more economically advantageous than rehabilitation, and the trial court authorized demolition.

PROCEDURAL HISTORY

The City filed a petition under Health and Safety Code section 17980.7 for appointment of a receiver after years of unsuccessful civil and criminal enforcement efforts concerning serious housing-code violations. The superior court appointed a receiver and later authorized demolition rather than rehabilitation. The Court of Appeal affirmed, and the Supreme Court affirmed the Court of Appeal.

DISPOSITION

affirmed

CASES CITED

- Gattuso v. Harte-Hanks Shoppers, Inc., 42 Cal. 4th 554, 567 (2007)
- Hassan v. Mercy American River Hospital, 31 Cal. 4th 709, 715 (2003)
- In re Reeves, 35 Cal. 4th 765, 771 n.9 (2005)
- People v. McGee, 19 Cal. 3d 948, 958-962 (1977)
- Morris v. County of Marin, 18 Cal. 3d 901, 908-910 nn.4 (1977)
- Cox v. California Highway Patrol, 51 Cal. App. 4th 1580, 1587 (1997)
- Cal-Air Conditioning, Inc. v. Auburn Union School Dist., 21 Cal. App. 4th 655, 667-673 (1993)
- People v. Gonzales, 188 Cal. App. 3d 586, 590 (1986)
- Jones v. Flowers, 547 U.S. 220, 225-227 (2006)
- Customer Co. v. City of Sacramento, 10 Cal. 4th 368, 400 (1995)
- Matera v. McLeod, 145 Cal. App. 4th 44, 60 (2006)
- D & M Financial Corp. v. City of Long Beach, 136 Cal. App. 4th 165, 173-179 (2006)
- People v. Stark, 131 Cal. App. 4th 184, 199, 204, 207-208 (2005)

- Lesser & Son v. Seymour, 35 Cal. 2d 494, 499, 503 (1950)
- Security Pacific National Bank v. Geernaert, 199 Cal. App. 3d 1425, 1432 (1988)
- Cal-American Income Property Fund VII v. Brown Development Corp., 138 Cal. App. 3d 268, 273-274 (1982)
- Golden State Glass Corp. v. Superior Court, 13 Cal. 2d 384, 393 (1939)
- People v. Riverside University, 35 Cal. App. 3d 572, 582 (1973)
- Hawthorne Savings & Loan Assn. v. City of Signal Hill, 19 Cal. App. 4th 148, 158-161 (1993)
- City and County of San Francisco v. Jen, 135 Cal. App. 4th 305, 311 (2005)

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