

SUPREME COURT OF PENNSYLVANIA

Shamnoski v. PG Energy, 579 Pa. 652

858 A.2d 589 (Pa. 2004) · Decided September 28, 2004

SUMMARY

The Supreme Court of Pennsylvania reviewed negligence claims arising from flooding allegedly associated with PG Energy's upstream water-supply dams during Hurricane Gloria. The Court addressed whether the Dam Safety and Encroachments Act and related regulations imposed duties to increase spillway capacity, draw down reservoirs, issue warnings, and protect downstream property owners from storm-related flooding. The Court held that PG Energy was not negligent as a matter of law and reversed the lower courts.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Castille; Chief Justice Zappala; Justice Cappy; Justice Nigro; Justice Newman; Justice Saylor; Justice Eakin
JURISDICTION	Pennsylvania
DECIDED	September 28, 2004
DISPOSITION	reversed
PROCEDURAL POSTURE	Appeal from the affirmance of a judgment imposing negligence liability on PG Energy for flooding-related property damage; the Supreme Court reviewed the lower courts' refusal to grant judgment notwithstanding the verdict.
STANDARD OF REVIEW	Review of the legal propriety of judgment notwithstanding the verdict is plenary. The court considers whether, viewing the record in the light most favorable to the verdict winner and granting all favorable inferences, sufficient competent evidence supports the verdict; credibility determinations and evidentiary conflicts are not reweighed.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	PG Energy, a Division of Southern Union Company, formerly known as PG Energy, Inc. v. Stephen A. Shamnoski and Dorothy Shamnoski, Richard Rubel and Adele Rubel, Lorraine McDonald

TOPICS

negligence

duty of care

statutory interpretation

administrative law

environmental law

PRACTICE AREAS

torts

negligence

environmental law

administrative law

QUESTIONS PRESENTED

1. Whether Section 693.13 of Pennsylvania's Dam Safety and Encroachments Act and related regulations impose a general duty on water-supply dam owners to control flooding or protect downstream property from stormwater unrelated to structural dam failure.
2. Whether a violation of Section 693.13 constitutes negligence per se.
3. Whether the evidence established that PG Energy breached a legal duty and was negligent when its dams did not structurally fail and the flooding resulted from Hurricane Gloria's natural runoff.
4. Whether judgment notwithstanding the verdict should have been granted.

HOLDINGS

1. The Dam Safety and Encroachments Act and its implementing regulations impose duties directed to the safety and structural integrity of the dam facility, including protection against foreseeable harms resulting from facility failure; they do not impose a general duty to control natural flooding or insure downstream property owners against stormwater unrelated to structural dam failure.
2. A violation of Section 693.13 does not constitute negligence per se because the statute states a general reasonable-person standard and does not prescribe sufficiently specific conduct.
3. The evidence was insufficient as a matter of law to establish negligence because the dams did not fail structurally and the homeowners' damages resulted from the natural effects of Hurricane Gloria rather than water released through a dam breach or failure.

KEY QUOTATIONS

"A violation of Section 693.13 of the Dam Safety Act is not an appropriate basis for a finding of per se negligence." (674)

"We hold that the evidence here was insufficient as a matter of law to prove that appellant was negligent." (676)

"Because the dams did not fail, and the damages which appellees sustained were a result of the natural effect of the storm, appellant did not breach any legal duty to appellees." (680)

FACTUAL BACKGROUND

Hurricane Gloria dropped more than six inches of rain on the Springbrook Creek watershed in less than twenty-four hours, flooding or destroying the downstream homeowners' properties. PG Energy operated four permitted water-supply dams upstream from the properties. The dams did not structurally fail, burst, leak, or wash away, and some reservoir capacity actually retained part of the stormwater. The homeowners nevertheless claimed that

PG Energy negligently maintained inadequate spillways, failed to draw down the reservoirs, and failed to warn of a dam hazard emergency.

PROCEDURAL HISTORY

The trial judge, sitting as factfinder in an equity action, entered judgment for the downstream homeowners. The Superior Court affirmed the liability determination, initially remanding only the issue of delay damages and later affirming the final decree. The Supreme Court granted review and reversed, entering judgment for PG Energy.

DISPOSITION

reversed

CASES CITED

- Phillips v. A-Best Products Co., 542 Pa. 124, 665 A.2d 1167 (1995)
- Wenrick v. Schloemann-Siemag Aktiengesellschaft, 523 Pa. 1, 564 A.2d 1244 (1989)
- Commonwealth, Dep't of Transp., Bureau of Traffic Safety v. Korchak, 506 Pa. 52, 483 A.2d 1360 (1984)
- Adamski v. Miller, 545 Pa. 316, 681 A.2d 171 (1996)
- Beaver Valley Power Co. v. National Eng'g & Contracting Co., 883 F.2d 1210 (3d Cir. 1989)
- Miller v. Hurst, 302 Pa. Super. 235, 448 A.2d 614 (1982)
- Sharpe v. St. Luke's Hosp., 573 Pa. 90, 821 A.2d 1215 (2003)
- Althaus ex rel. Althaus v. Cohen, 562 Pa. 547, 756 A.2d 1166 (2000)
- Sinn v. Burd, 486 Pa. 146, 404 A.2d 672 (1979)
- Lucas v. Ford, 363 Pa. 153, 69 A.2d 114 (1949)
- LaForm v. Bethlehem Twp., 346 Pa. Super. 512, 499 A.2d 1373 (1985)
- Piekarski v. Club Overlook Estates, Inc., 281 Pa. Super. 162, 421 A.2d 1198 (1980)