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EMINENT DOMAIN - LOUISIANA

St. Bernard Port, Harbor & Terminal District v. Violet Dock Port, Inc., LLC

Supreme Court of Louisiana - January 30, 2018 - So.3d - 2018 WL 618831 - 2017-0434 (La. 1/30/18)

Parish port, harbor, and terminal district filed quick-take expropriation action against owner of property that contained port facilities.

The District Court found, following evidentiary hearing, that taking served public purpose and, following bench trial, rendered judgment finding that value of property was $16,000,000, that port was not entitled to damages for debris removal, and that property owner was entitled to interest on funds that had remained in court registry pending determination on offset claim.

Property owner appealed, and district cross-appealed. The Court of Appeal affirmed as amended, and property owner applied for writ of certiorari.

The Supreme Court of Louisiana held that:

- Parish port, harbor, and terminal district's expropriation of property containing port facilities was for valid public purpose;
- Parish port, harbor, and terminal district's expropriation of property containing port facilities did not violate the business enterprise clause; but
- Trial court's misconception that it could not "split the baby" and arrive at a fair market value somewhere in between two expert opinions was prejudicial to property owner.

Parish port, harbor, and terminal district's expropriation of property containing port facilities was for valid public purpose, and thus did not violate constitutional requirement that taking be for public purpose, though property owner asserted real purpose was so that port could continue to operate its layberthing and cargo facility and obtain contracts with United States Navy; legislature granted district broad discretion and authority to maintain and further development of its operations, district indicated that it intended to maintain current use of property initially, with comprehensive plan to expand facility to include dry and liquid bulk cargo operation, and healthy port would generate local jobs, industry, and associated local consumption, and would provide great public benefit.

Parish port, harbor, and terminal district's expropriation of property containing port facilities did not violate the business enterprise clause, which barred the taking of a business enterprise or any of its assets for the purpose of operating that enterprise or halting competition with a government enterprise; testimony at trial was that property owner's lease with the Navy was an afterthought, and that the "best news" for the Port's operation would be to use the Navy berth to further expand cargo operations, and although property owner argued that its cargo operations were expanding, the record showed them to be negligible, and not in competition with the Port.

Trial court's misconception that it could not "split the baby" and arrive at a fair market value in expropriation case somewhere in between two expert opinions was prejudicial to property owner,

insofar as it limited what the trial court believed to be just compensation due property owner under the law; trial court was not required to make a binary choice and accept one side's testimony in its entirety, but was instead empowered to weigh strengths and weaknesses of the experts' testimony.

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