
ADVERSE POSSESSION - LOUISIANA

Fontenot v. Town of Mamou

Court of Appeal of Louisiana, Third Circuit - December 19, 2018 - So.3d - 2018 WL 6630268 - 2018-301 (La.App. 3 Cir. 12/19/18)

Owner of tract of land on which a town had built a sewerage lift station brought declaratory judgment or quiet title action to determine ownership of the lift station.

The District Court entered judgment determining that the town owned the lift station and the land upon which it was built. Landowner appealed.

The Court of Appeal held that:

- The town, as a political subdivision, could not acquire full ownership of the land through acquisitive prescription
- Even if town was able to acquire ownership through acquisitive prescription, the town was a precarious possessor of a sewerage lift station;
- Town's annexation of land upon which the lift station was built did not constitute actual notice to landowners, as required for acquisitive prescription; and
- Registered landowner, rather than town, owned land that town had built the lift station on.

Constitutional provision which permits political subdivisions to acquire property by purchase, donation, expropriation, exchange, or otherwise, does not include by way of acquisitive prescription.

Even if town was able to acquire ownership of a property through acquisitive prescription, the town was a precarious possessor of a sewerage lift station and land that it was built upon; town was requested to connect sewerage system, prior landowners permitted construction of lift station, the prior landowners never interfered with town's maintenance or operation of the station, and town never gave actual notice of its intent to possess the land as an owner.

Town's annexation of land upon which a sewerage lift station was built did not constitute actual notice to landowners, as required for acquisitive prescription, where the town's annexation merely extended corporate limits of the town to include the land.

Registered landowner, rather than town, owned land that town had built a sewerage lift station on, under statute providing that improvements on another's land belong to the builder, where the town never recorded separate ownership of the land.

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