

Bond Case Briefs

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Hughes v. Tom Green County

Supreme Court of Texas - March 8, 2019 - S.W.3d - 2019 WL 1119904 - 62 Tex. Sup. Ct. J. 566

Testator's nephew brought action against county beneficiary of will for breach of contract and violations of Open Meetings Act by refusing to name new county library after testator in violation of agreement to share any recovery equally with heirs in suit brought by university beneficiary.

The District Court granted county's plea to jurisdiction. Nephew filed interlocutory appeal. The Austin Court of Appeals affirmed. Nephew's petition for review was granted.

The Supreme Court of Texas held that:

- County lacked governmental immunity with respect to claims in underlying litigation involving university and heirs, and
- Mutual partial assignment agreement between heirs and county was settlement agreement precluding county's immunity claim.

County's intervention, as beneficiary under will's residuary clause, in university beneficiary's probate litigation seeking release of restriction on use of oil and gas interests and county's affirmative claim to disputed mineral interests abrogated county's governmental immunity with respect to heirs' claim of partial intestacy due to lapse on ground that purpose of residuary gift for funding county library no longer existed; by affirmatively invoking residuary clause, county implicated claims of those who opposed county's recovery, heirs' claim was germane, connected, and properly defensive and offsetting to county's affirmative suit for title to mineral interests, and litigation over gift did not implicate taxpayer dollars or otherwise threaten public treasury.

Mutual partial assignment agreement between testator's heirs and county beneficiary opposed to university beneficiary's claim seeking removal of restriction on use of funds from oil and gas interests was settlement agreement, and, thus, county which lacked immunity with respect to probate claims had no immunity from heir's suit claiming breach of agreement, even though preamble stated agreement was not intended to eliminate or reduce any claims; county and heirs had mutually exclusive claims to mineral interests, they settled that adversity by cross-assignment of half of mineral interests and net proceeds, and heirs received executive rights in mineral interests.