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EMINENT DOMAIN - ILLINOIS

Pardilla v. Village of Hoffman Estates

Appellate Court of Illinois, First District, Fourth Division - May 25, 2023 - N.E.3d - 2023 IL App (1st) 211580 - 2023 WL 3636671

Landowners brought action against village, asserting claims for inverse condemnation, ejectment, and trespass and sought a temporary restraining order and preliminary injunction to order village to remove from their property fencing and materials used to rebuild a sanitary lift station.

After preliminary injunction was granted, owners filed petition for rule to show cause, alleging village continued to perform construction work in violation of the injunction.

The Circuit Court issued a rule to show cause, and following a hearing, found village in indirect civil contempt of the injunction, ordered village to pay fines for any future violations of the injunction, and awarded attorney's fees to landowners. Village appealed.

The Appellate Court held that:

- Term in preliminary injunction was not definite, clear, nor precise, and thus was unenforceable, and
- Landowners' offer of proof was not sufficient to satisfy landowners' burden of making prima facie showing that village violated preliminary injunction.

Orders relating to preliminary injunction prohibiting village from interfering with landowners' use of their property, finding that village was in contempt for violating injunction, and award of attorney's fees to landowners in connection with contempt proceedings were appealable, and thus, Appellate Court had jurisdiction to review orders, though injunction was moot as village completed what it was ordered to do and no longer sought to do what injunction prohibited; injunction was reviewable since village was found in contempt for violating injunction and it appealed contempt finding, and award of attorney's fees was a penalty imposed because of contempt finding, making contempt order reviewable.

Term in preliminary injunction prohibiting village from interfering with landowners' use of their property while also providing that village could appropriately exercise its easement rights over landowners' property to rebuild a sanitary lift station on adjoining property was not definite, clear, nor precise, and thus term of the injunction was unenforceable; order gave little more direction than a general command to obey the law, it failed to specify what village could or could not do, and it laid a foundation for inevitable future disputes.

Landowners' offer of proof, in which their attorney presented photographs and stated landowner would testify that village was doing construction work on his property, was not sufficient to satisfy landowners' burden of making prima facie showing that village violated previously issued preliminary injunction requiring village to remove fencing and materials from landowners' property and prohibiting village from interfering with their property rights, and thus burden of proof did not shift to village in proceedings brought by landowners to hold village in contempt for violating the

preliminary injunction; offer of proof was not called for when parties appeared on petition for rule to show cause since court had not excluded any evidence, rather, court essentially permitted attorney to make oral presentation of landowners’ verified petition.

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