

Bond Case Briefs

Municipal Finance Law Since 1971

EMINENT DOMAIN - NORTH CAROLINA

Sansotta v. Town of Nags Head

United States Court of Appeals, Fourth Circuit - July 25, 2013 - F.3d - 2013 WL 3827471

Owners of oceanfront cottages brought § 1983 action in state court against town, alleging that, in declaring cottages nuisances, town violated owners' constitutional rights. Town removed action to federal court. The United States District Court for the Eastern District of North Carolina granted summary judgment to town on owners' procedural due process and equal protection claims and dismissed owners' takings claim as unripe. Owners appealed.

The Court of Appeals held that:

- Town did not deprive owners of their procedural due process rights;
- Town did not violate owners' equal protection rights; and
- By removing action, town waived requirement that a plaintiff must seek compensation from the state before bringing a takings claim in federal court.

Town did not deprive oceanfront cottage owners of their property interest with respect to their right to use and enjoy cottages as part fee simple ownership, in connection with town declaring cottages to be nuisances, and town thus did not violate owners' procedural due process rights on such basis, since town's regulatory actions represented limitations on use of property that inhered in title itself. Although town ultimately lacked authority to declare cottages to be nuisances based on public trust doctrine, town's actions to abate nuisance were reasonable uses of its police power that did nothing to deprive owners of any property right.

Owners of oceanfront cottages had property interest, protected by due process clause, in money that would be used to pay any fines imposed by town upon declaring cottages nuisances. Owners of oceanfront cottages had property interest, protected by due process clause, in money that would be used to pay any fines imposed by town upon declaring cottages nuisances.