

Bond Case Briefs

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EMINENT DOMAIN - ILLINOIS

Wilson v. Robinson Tp.

Appellate Court of Illinois, Fifth District - January 15, 2014 - Not Reported in N.E.2d - 2014 IL App (5th) 130134-U

Landowners argued that the taking of land by Robinson Township through eminent domain, for the purpose of altering a road, was void ab initio because the township had failed to comply with the provisions of the Eminent Domain Act (735 ILCS 30/1-1-1 to 99-5-5 (West 2012)) and the Illinois Highway Code (605 ILCS 5/6-101 to 6-329 (West 2008)). Landowners argued that at the time of the filing of the eminent domain action, no formal resolution or ordinance had been adopted by Robinson Township authorizing the taking of the property. Landowners argued that, because Robinson Township failed to initiate formal proceedings at the township level prior to initiating eminent domain proceedings, in violation of the Eminent Domain Act, the taking is void ab initio.

The appeals court conceded that the township may have exceeded its authority in bringing the eminent domain action without first having taken the appropriate formal action but that this did not equate to the circuit court's having exceeded its authority by entering the eminent domain judgment. The circuit court had jurisdiction over the eminent domain proceeding and the parties thereto. Accordingly, the eminent domain judgment may have been voidable in a direct attack against it, but it is not void and may not be collaterally attacked in the administrative review proceeding.

Accordingly, the appeals court rejected the appellants' argument on appeal and affirmed the decision of the circuit court.