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Rock River Water Reclamation Dist. v. Sanctuary Condominiums of Rock Cut

Appellate Court of Illinois, Second District - December 11, 2014 - N.E.3d - 2014 IL App (2d) 130813

In order to build a sewer extension, the Rock River Water Reclamation District sought to obtain a permanent easement and a temporary construction easement from The Sanctuary Condominiums of Rock Cut to run a trunk line through its property. As a result, plaintiff sought to obtain from defendant both a permanent easement and a temporary construction easement. After discussions to acquire the easements broke down, the District filed a complaint for condemnation in the circuit court. On Condo's motion, the trial court dismissed the District's complaint on the bases that the ordinance authorizing construction of the Oak Crest project failed to state that a taking of defendant's property was necessary and failed to describe with reasonable certainty the property sought to be taken.

Thereafter, the District enacted another ordinance in an effort to cure the deficiencies identified by the trial court. The District then offered defend \$2,700 for the easements, double their appraised value. Condo rejected District's offer and District initiated a new condemnation action. The trial court determined that \$1,350 was just compensation for the easements. Condo Appealed.

The Appellate Court held that:

- Condo was not entitled to dismissal of the second condemnation action on the ground of res judicata;
- District had the authority to condemn property; and
- The trial court did not err in refusing to compensate Condo for any damage that installation of the proposed trunk line would cause to its property.

"In light of the foregoing cases, we conclude that the two lawsuits in this case do not share an identity of causes of action, because they are based upon different sets of operative facts. The second condemnation action is based upon the 2011 Ordinance whereas the first condemnation action was based upon the 2010 Ordinance. The 2010 Ordinance provided for the construction of sanitary sewers in the Oak Crest Sanitary Sewer Area and provided for a special assessment to pay for the project. Plaintiff's first condemnation action was dismissed after the trial court concluded that the 2010 Ordinance neither stated that a taking of defendant's property was necessary nor described the portion of defendant's property to be taken. In an attempt to cure these deficiencies, plaintiff enacted the 2011 Ordinance, which states that an easement across defendant's property is necessary, incorporates a description of defendant's property by reference, provides that plaintiff's attempts to negotiate for the easement have been unsuccessful, and authorizes plaintiff to initiate condemnation proceedings to acquire the defendant's property. In other words, the 2010 Ordinance's deficiencies identified by the trial court in the first condemnation action were not at issue in the second condemnation action."

