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Bay Point Properties, Inc. v. Mississippi Transp. Com'n

Supreme Court of Mississippi - July 21, 2016 - So.3d - 2016 WL 3941068

Landowner filed inverse condemnation proceedings against the Mississippi Transportation Commission (MTC), claiming the easement MTC had across landowner's property had terminated and that MTC was required to pay landowner the unencumbered value of the property.

The Circuit Court entered judgment on jury verdict finding that the easement — for which MTC had paid \$50,000 — continued to encumber the property, but that the use by MTC was not a highway purpose and awarding landowner the encumbered value of \$500. Landowner appealed.

The Supreme Court of Mississippi held that:

- Evidence of abandonment would be limited to what the highway statute required, namely MTC minute entries;
- Evidence supported jury's verdict awarding \$500 to landowner; and
- Trial court's failure to award any attorney fees to landowner was manifestly wrong.

Highway easement could not have been abandoned by nonuse pursuant to statute, providing that in no instance shall any part of any property acquired by the Mississippi Transportation Commission (MTC), or any interest acquired in such property, including, but not limited to, easements, be construed as abandoned by nonuse. Instead, release (i.e., termination or abandonment) of easement requires a determination on the minutes.

Evidence of abandonment would be limited to what the highway statute required, namely Mississippi Transportation Commission (MTC) minute entries, in inverse condemnation proceeding brought against MTC by landowner, claiming the easement MTC had across landowner's property had terminated and that MTC was required to pay landowner the unencumbered value of the property. Statute provided that all easements for highway purposes shall be released when they are determined on the minutes of the MTC as no longer needed for such purposes, and statute itself provided the sole process by which an easement for highway purposes terminated.

Trial court did not abuse its discretion by excluding evidence of appraised value of the five-foot buffer around bayou reserved to landowner in inverse condemnation action brought against Mississippi Transportation Commission (MTC) by landowner's successor-in-interest, claiming the easement MTC had across the property had terminated and that MTC was required to pay landowner the unencumbered value of the property. Five-foot buffer was reserved to landowner, and thus, he retained rights in that property that he did not retain in the property subject to MTC's easement, and appraisal evidence would be irrelevant and would serve only to confuse the jury, as the value of the buffer was not related to the value of the property.

If easement, acquired by Mississippi Transportation Commission (MTC) for all highway purposes, remained in existence and MTC was using it for a highway purpose, there was no taking, but if the easement remained in existence, but MTC was using the property for a purpose other than a

highway purpose, then MTC took landowner's property, and the compensation owed would be the value of the property, subject to the easement, and could not exceed a sum evidenced by the proof offered. However, if the easement had been abandoned, and MTC was using the property for a purpose other than a highway purpose, then MTC took landowner's property, for which landowner was owed the value of the property, unencumbered by the easement.

Evidence supported jury's verdict awarding \$500 to landowner in his inverse condemnation action against Mississippi Transportation Commission (MTC), claiming the easement MTC had across landowner's property had terminated and that MTC was required to pay landowner the unencumbered value of the property. Appraiser-witnesses agreed that the unencumbered value of the property was \$26 per square foot, landowner's appraiser refused to give an encumbered value, MTC's appraisers testified that, according to appraisal methodology and procedures, along with their personal knowledge of practice, the encumbered value of the property would be a nominal sum of around \$100-\$500, and this was the only encumbered value presented to the jury.

Evidence was insufficient to constitute a release of Mississippi Transportation Commission's (MTC) easement for highway purposes. Statute provided that easements for highway purposes could be released only when MTC determined on its minutes that it no longer needed the property for highway purposes, and while MTC's agreement with county was executed on the minutes, the agreement provided that the county would provide, at no cost to the MTC, any right or interest in any property owned by the county which might be necessary to complete construction of the park, agreement further provided that MTC retained its interest in the property, and that, if the county determined it would no longer operate the park, the county would inform MTC, which would have the option of closing the park and removing all improvements.

It was within the trial court's discretion not to grant landowner's attorney fee request for \$680,000 in full, but trial court's failure to award any reimbursement at all was manifestly wrong and in direct violation of statute providing that, where an inverse condemnation proceeding is instituted by the owner of any right, title or interest in real property because of use of his property in any program or project in which federal and/or federal-aid funds are used, the court, rendering a judgment for the plaintiff in such proceeding and awarding compensation for the taking of property, shall determine and award plaintiff such sum as will, in the opinion of the court, reimburse such plaintiff for his reasonable costs. Mississippi Transportation Commission (MTC) used federal funds to finance construction of the park, landowner was the plaintiff in this inverse-condemnation proceeding, and jury rendered a verdict for landowner in the amount of \$500.