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EMINENT DOMAIN - MISSISSIPPI

State v. Murphy

Supreme Court of Mississippi - October 27, 2016 - So.3d - 2016 WL 6427112

Property owners brought inverse condemnation action against State and city, after city constructed municipal harbor on disputed property.

After a jury trial, the Circuit Court found State liable. State appealed.

The Supreme Court of Mississippi held that:

- Issue of whether State owned disputed property was for jury;
- Cause of action accrued when property was actually taken;
- Owners' expert did not include noncompensable littoral rights in his calculation of damages;
- Weight of the evidence supported jury's finding that property owners owned disputed property;
- State was not prejudiced by the decision to admit city's deemed admissions;
- Jury's verdict did not exhibit impermissible prejudice or bias against State; and
- State was not entitled remittitur.

Issue of whether State owned all property east of seawall was for jury in property owners' inverse condemnation action, arising out of State's lease of property to city for building municipal harbor.

Property owners' cause of action for inverse condemnation accrued when property was actually taken by State and city to construct municipal harbor, despite contention that three-year, "catch-all" statute of limitations was triggered when final map of public trust submerged land was published pursuant to Tidelands Act. Final map did not establish that property in question was public trust tidelands, and owners had no cause of action against State when map was published, because they still owned property in dispute after map was published.

Property owners' expert on real estate appraisal in inverse condemnation action did not include noncompensable littoral rights in his calculation of damages, and therefore expert's testimony was admissible. Even though expert said phrase "riparian and littoral rights" on cross-examination, expert did not mention littoral or riparian rights during his direct examination, and expert simply explained characteristics of property that he considered in calculating fair market value before and after taking, including fact that property no longer had access to or view of ocean after taking.

Weight of evidence supported jury's finding that property owners owned disputed property east of seawall in their inverse condemnation action against State and city. Even though evidence was conflicting, deeds referenced mean high water tide or water's edge of bay as eastern boundary of property, oldest deed was executed 12 years before seawall was completed, and no deed in chain of title made reference to seawall.

State was not prejudiced by trial court's decision to admit city's deemed admissions in property owners' inverse condemnation action against city and State, and therefore court did not abuse its discretion. State did not object to admissibility of city's deemed admissions, but only to format in

which they were admitted, owners amended city's deemed admissions so that they clearly stated they did not apply to State, and jury was instructed that admissions did not apply to State.

Jury's verdict finding State, but not city, liable to property owners in inverse condemnation action, after city constructed municipal harbor on property, did not exhibit impermissible prejudice or bias against State. State claimed true ownership of property, State was listed as lessor of property to city, and city could not have constructed harbor without State first exercising claim of ownership over property.

State was not entitled remittitur in property owners' inverse condemnation action regarding municipal harbor constructed on land east of old seawall, despite contention that owners considered construction of new seawall by Army Corps of Engineers as cause of approximately 90% of owners' damages. Owners considered new seawall and harbor to be part of one project, new seawall did not completely block owners' access to or view of beach, whereas construction of harbor did, and jury's award was lower than owners' calculation of compensatory damages.

Award of attorneys' fees to property owners in inverse condemnation action against State was authorized by statute, even though State merely leased property to city for construction of municipal harbor, where State claimed and asserted control over property owned by owners, and State stated in its discovery responses that, upon information and belief, federal funds were used in construction of harbor.

The statute authorizing the trial court to award reasonable expenses, including attorneys' fees, in specific inverse condemnation proceedings does not limit the source of recovery to the party who actually used the property or received federal funds, but broadly orders the trial court to award reasonable expenses in any case in which private property is being used in any program or project in which federal or federal-aid funds are used.