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EMINENT DOMAIN - ARKANSAS

Convent Corporation v. City of North Little Rock

Supreme Court of Arkansas - January 28, 2021 - S.W.3d - 2021 Ark. 72021 WL 297242

Landowner brought putative class action against city seeking injunctive relief, declaratory judgment, and damages for violation of civil rights and trespass following city's resolution condemning structure as public nuisance.

Following removal to federal court and return, the Circuit Court denied landowner's motion for class certification, dismissed several claims, and denied landowner's motion for a judgment on the pleadings. Landowner appealed, and the Supreme Court reversed and remanded. Upon remand, the Circuit Court entered an order finding that substantial evidence supported the city council's determination that the property was a nuisance. Landowner appealed, and the Supreme Court dismissed the appeal as from a nonfinal order. Landowner thereafter filed an amended and reinstated petition for declaratory judgment, seeking a declaration that the city's ordinance related to condemnation proceedings was unconstitutional. The Circuit Court granted city's motion for summary judgment, and landowner appealed.

The Supreme Court held that:

- Landowner had standing to bring action;
- Challenge that city's condemnation decision was not supported by substantial evidence and was arbitrary and capricious was moot;
- Exhaustion of administrative remedies doctrine did not preclude landowner from bringing constitutional, civil-rights, and trespass claims in conjunction with appeal from condemnation decision;
- Condemnation ordinance and procedures were not facially unconstitutional in violation of due process;
- Condemnation ordinance and resolution condemning landowner's property as a nuisance was not an improper bill of attainder; and
- Court appropriately exercised its discretion when declining to grant landowner's motion to strike city's answer.

Commercial landowner had standing to bring appeal challenging city's condemnation of its property, although it failed to pay taxes for certain years and did not redeem the property until after the condemnation proceedings were commenced, where landowner was named and recognized as the property owner by the city in its condemnation proceeding and resolution, and landowner also retained the right to redeem the property during the relevant time period by paying the delinquent taxes.

Commercial landowner's challenge that city's condemnation decision was not supported by substantial evidence and was arbitrary and capricious was moot, where landowner only requested that city resolution ordering its property condemned as a nuisance be overturned, structure had already been razed by the city, and landowner had not requested a stay of the circuit court's final order or attempted to post a bond to prevent destruction of the property.

Issue of whether circuit court erred in action challenging condemnation by dismissing landowner's constitutional claims, civil-rights claims, and common-law claim of trespass, on the basis that it had failed to exhaust its administrative remedies, was not moot on grounds that, after court rejected landowner's appeal of the condemnation decision, it then considered landowner's amended and reinstated petition for declaratory judgment, which raised only a facial challenge to the condemnation ordinance and procedures; court had declined to reinstate claims in order deciding the administrative appeal, despite the fact that landowner filed a motion requesting it to do so, court did not rule on the merits of the claim, and landowner did not voluntarily dismiss or otherwise abandon them.

Exhaustion of administrative remedies doctrine did not preclude landowner from bringing constitutional, civil-rights, and trespass claims in conjunction with appeal from city's condemnation decision; while it may have been appropriate for the circuit court to first rule on the administrative appeal before proceeding to the additional claims, the court denied without explanation landowner's motion to reinstate the claims once the administrative appeal had been decided.

City's condemnation ordinance and procedures were not facially unconstitutional in violation of due process; ordinance provided for adequate notice prior to condemnation, as well as a public hearing, and included information on how to appeal a condemnation decision, and while ordinance did not include procedures by which an owner could rehabilitate a structure prior to a condemnation resolution, it did not expressly prohibit a precondemnation rehabilitation plan either.

Issue of whether city's condemnation ordinance contained important and material terms that were undefined and vague and provided city too much discretion was raised for first time in landowner's motion for summary judgment, and thus Court appropriately granted summary judgment against landowner on that claim; landowner did not include the claim in its original complaint or in its amended and reinstated petition for declaratory judgment, even within the context of its due-process argument.

City's condemnation ordinance and resolution condemning landowner's property as a nuisance was not an improper bill of attainder; condemnation ordinance did not legislatively punish a named individual or an easily ascertainable group, and resolution condemning the property was not a legislative act but an administrative one.

Even assuming city was required to file an answer within 30 days of notice of remand from federal court, circuit court appropriately exercised its discretion when declining to grant landowner's motion to strike the answer in action challenging city's decision to condemn landowner's property as a nuisance, given that city filed an answer in federal court and then filed an amended answer, albeit outside the 30 day time period, to the specific claims raised in state court.