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Snodgrass v. City of Wichita

Court of Appeals of Kansas - April 1, 2022 - Slip Copy - 2022 WL 982008

After accepting a developer's petition to finance street, sewer, and water improvements for a housing development under, the City of Wichita levied special assessments against Appellants and other property owners in 2004.

The City issued bonds to pay for the improvements, then in 2011 issued refunding bonds to benefit from lower interest rates. But the City did not refund to property owners any of the money it saved by doing so. Appellants sued the City, asserting an entitlement to money based on the difference between the interest rate on the original bonds in 2004 and the interest rate of refunding bonds issued in 2011.

The City responded and moved for summary judgment, arguing that it was not legally required to reduce any assessments after issuing the refunding bonds. The City also asked the district court to dismiss Appellants' motion based on the statute of limitations, lack of notice, and immunity.

Appellants argued that their claims were unrelated to the City's original assessment, so they need not comply with the 30-day statute of limitations in K.S.A. 12-6a11 — theirs was not a "suit to set aside the said assessments or otherwise question the validity of the proceedings." Instead, Appellants argued that they sued soon after learning the City had issued refunding bonds for their property.

The Court of Appeals found – viewing the pleading and the facts in the light most favorable to Appellants – that the City failed to show that Appellants' suit questioned the validity of the assessment proceedings, and thus the City failed to show that the 30-day statute of limitations under K.S.A. 12-6a11 applied.

However, Appellants failed to show that the three-year statute of limitations applicable to implied contracts under K.S.A. 60-512 was tolled. Thus, their implied contract claims were barred by that statute.

As to the takings claim, the court held that Appellants did not sue until seven years after the City published notice of the refunding bonds, and thus their takings claim under § 1983 was barred by the two-year statute of limitations in K.S.A. 60-513(a)(4).

Appellants also argued that a property owner cannot be assessed any more than the special benefit incurred because that would constitute a taking of private property for public use without compensation, regardless of the amount. But the Court noted that precedent limited takings claims to those that show a "substantial excess" of cost over benefit.

In this instance, the Court focused on the $300 purportedly lost by the Appellants – as opposed to the $60 million saved by the City – and held that Appellants thus failed to show the City exacted "the cost of a public improvement in substantial excess of the special benefits accrued."

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