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EMINENT DOMAIN - WASHINNGTON

Maslonka v. Public Utility District No. 1 of Pend Oreille County

Court of Appeals of Washington, Division 3 - August 2, 2022 - P.3d - 2022 WL 3037184

Landowners brought action against county public utility district, an operator of river dam that caused occasional flooding, seeking injunctive relief and asserting claims of inverse condemnation, trespass, nuisance, and negligence arising from flooding of their agricultural property.

Utility district counterclaimed for declaration of prescriptive easement to flood at water levels above those set forth in express easement.

On summary judgment, the Superior Court declared a prescriptive easement in favor of utility district and dismissed landowners' claims. Landowners appealed.

The Court of Appeals held that:

- Continuous and uninterrupted use, as element of prescriptive easement, can be decided on summary judgment;
- As matter of first impression, a party asserting a prescriptive easement must prove each element by clear and convincing evidence;
- Factual issues precluded summary judgment on prescriptive easement claim;
- Factual issue as to applicability of subsequent purchaser rule precluded summary judgment on inverse condemnation claims as to riverfront parcel;
- Trespass and nuisance claims for riverfront parcel were not subsumed by inverse condemnation claims; and
- Utility district did not cause injury to inland agricultural parcel that allegedly flooded due to defect in diking improvements.

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