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EMINENT DOMAIN - TEXAS

State v. LBJ/Brookhaven Investors, L.P.

Court of Appeals of Texas, Dallas - August 2, 2022 - S.W.3d - 2022 WL 3053893

Former owners of commercial property filed suit against State, Department of Transportation, Transportation Commission, Department's Executive Director, and Commission's Chairman, seeking to enforce their right of repurchase as to parcel of land along freeway that owners contended were taken in eminent domain proceedings and were no longer necessary to the project or public use.

The 134th District Court denied the State's plea to the jurisdiction. State appealed.

The Court of Appeals held that:

- State's failure to formally amend its condemnation petition to specifically reference parcel of land bordering its right of way did not deprive trial court of jurisdiction to render agreed judgment affecting parcel;
- State acquired parcel by eminent domain, for purposes of eminent domain right of repurchase statute; and
- Eminent domain statutes allow State to be sued in cases involving claims for property acquired by eminent domain, including issues involving right of repurchase statute.

State's failure to formally amend its condemnation petition to specifically reference parcel of land bordering State's right of way that was not included in State's original condemnation petition did not deprive trial court of jurisdiction to render agreed judgment in condemnation proceedings, and thus judgment was not void as to parcel; both sides were not only aware of the specific property that was being condemned, but they reached an agreement as to that property.

Agreed judgment entered in condemnation proceedings regarding state highway project unambiguously reflected that State acquired parcel of land bordering its right of way that were not included in its original condemnation proceedings by eminent domain, rather than by later-filed special warranty deed, for purposes of determining whether eminent domain right of repurchase statute applied to parcel; judgment provided that State was "condemning and acquiring" property described in exhibits that included parcel, decreed that State recover fee simple title to property described in exhibits, ordered State to pay property owners full compensation for condemnation, and, upon payment, released and discharged State of obligation to pay compensation for taking of property.

Statute setting district court's authority in eminent domain proceedings allows State to be sued in cases involving claims for property acquired by eminent domain, and gives district court authority over "all issues," not just condemnation and damages; these issues include those involving right of repurchase statute, which itself provides that district court may determine all issues in any suit regarding repurchase of real property interest acquired through eminent domain by former property owner or owner's heirs, successors, or assigns.

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