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EMINENT DOMAIN - MONTANA

Hamlin Construction and Development Company Inc. v. Montana Department of Transportation

Supreme Court of Montana - October 4, 2022 - P.3d - 2022 WL 4917982 - 2022 MT 190

Developer brought action against the Montana Department of Transportation (MDT), raising claims for inverse condemnation, unjust enrichment, negligence, and nuisance, arising from MDT's alleged role in causing developer to be required to accommodate floodplain development permit requirements in order to construct a subdivision on its property. Developer brought separate action against the county, raising similar claims.

The District Court dismissed the unjust enrichment claim, entered summary judgment for MDT on inverse condemnation and nuisance claims, and denied developer's motion to consolidate case with the parallel case against the county. Developer appealed.

The Supreme Court held that:

- Developer failed to satisfy the causation element of inverse condemnation claim;
- Developer failed to show it conferred a benefit on MDT as required for unjust enrichment;
- Statute immunizing government agencies from liability for damages caused by an obstruction for which a flood plain permit had been granted survived rational basis review for constitutionality; and
- District court was not precluded from considering lack of causal connection as justification to grant summary judgment on the nuisance claim.

Developer failed to show that but for Montana Department of Transportation's (MDT) public project in reconstructing a road adjacent to site of its proposed subdivision it would not have suffered the damage for which it sought compensation, the inability to obtain a county development permit to construct a subdivision without construction of a large floodwater detention pond, and thus, developer failed to satisfy the causation element of claim for inverse condemnation under the Fifth Amendment and the Montana Constitution; developer did not assert that MDT's project created or worsened flood concerns on its property, as the property had preexisting flooding concerns and MDT's project, if anything, reduced those preexisting concerns.

Developer failed to plausibly allege that it had conferred a benefit on the Montana Department of Transportation (MDT) in form of county permit requirement that developer construct a large floodwater detention pond where it had planned to put houses in its planned subdivision project, which it alleged was to accommodate for defects and deficiencies in new culverts which were part of MDT's reconstruction project on an adjacent public road, for which MDT had alleged duty to repair, and thus, developer failed to satisfy an essential element for an actionable unjust enrichment claim; developer did not plausibly allege there were any problems associated with MDT's new culverts beyond those associated with developer's plans to its subdivision construction project or that MDT would have had to replace the culverts absent the detention pond.

To extent that statute immunizing government agencies from liability for damages caused by an obstruction for which a flood plain permit had been granted barred developer's claims for a damages remedy for permitted obstructions but did not bar just compensation for a constitutional taking or damaging under the Montana Constitution or Fifth Amendment, the challenged statutory section did not impinge upon developer's rights of acquiring, possessing, and protecting property to degree sufficient to warrant constitutional review under the strict scrutiny, and thus, the rational basis review standard applied, in developer's action alleging negligence by the Montana Department of Transportation (MDT) in replacing culverts on a public road, which caused flooding issues on developer's adjacent property.

Statute immunizing government agencies from liability for damages caused by an obstruction for which a flood plain permit had been granted was rationally related to legitimate government interest in shielding such entities from threat of costly damages litigation associated with water-flow obstructions resulting from development or maintenance of public works, so long as that government entity went through valid permit process intended to mitigate significant risks of flood damage to the travelling public and private property, and thus, developer failed to show statute violated substantive due process rights under the Fifth and Fourteenth Amendments and Montana Constitution, in action alleging negligence by the Montana Department of Transportation (MDT) in replacing culverts on public road that caused flooding to its adjacent property.

Issue of lack of causal connection between Montana Department of Transportation's (MDT) actions in replacing culverts on public road in reconstruction project and flooding issues on developer's adjacent property was before the court, and thus, district court was not precluded from using the lack of causal connection as justification to dismiss, on summary judgment, developer's nuisance claims due to MDT's failure to raise the argument until its reply brief on its motion for summary judgment, where developer had addressed the issue during the summary judgment hearing, and it was not clear that the district court even relied on arguments made in MDT's reply brief in reaching its determination.

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