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REAL PROPERTY CONVEYANCE - OHIO

Ohio Public Works Commission v. Barnesville

Supreme Court of Ohio - December 22, 2022 - N.E.3d - 2022 WL 17835696 - 2022-Ohi-4603

Ohio Public Works Commission (OPWC) brought action against village, lessee of oil and gas rights, and lessee's assignee, seeking injunction, declaratory judgment, and damages, and alleging that village violated use and development and alienation deed restrictions imposed in connection with grants from environmental conservation fund for village's purchase of two properties as "open space" reservoir and wetlands projects by leasing oil and gas rights without obtaining OPWC's consent.

The Court of Common Pleas denied OPWC's motion for judgment on the pleadings, granted assignee's motion for judgment on the pleadings, and granted village and lessee's motions for summary judgment. OPWC appealed. The Court of Appeals, 2020 WL 4596891, affirmed in part, reversed in part, and remanded. Assignee, lessee, and village sought further review.

The Supreme Court held that:

- Public policy did not preclude alienation deed restrictions;
- OPWC could pursue equitable relief as means to enforce restrictions; and
- Village violated use and development restrictions.

Public policy generally favoring alienability of real property did not preclude alienation deed restrictions imposed in connection with grants from environmental conservation fund for village's purchase of two properties as "open space" reservoir and wetlands projects; no rule, statute, or other authority supported a complete ban on transfer restrictions, disputed restrictions were sufficiently supported by public-policy purpose regarding environment and related conservation authorized by the Ohio Constitution, and restrictions were contracted for by the parties for that specific public purpose.

Ohio Public Works Commission (OPWC) could pursue equitable relief as means to enforce alienation deed restrictions imposed in connection with grants from environmental conservation fund for village's purchase of two properties as "open space" reservoir and wetlands projects; nothing in statute requiring director of OPWC to establish policies related to real property subject to an application for grant limited OPWC's remedies exclusively to liquidated damages.

Village violated use and development deed restrictions imposed in connection with grants from environmental conservation fund for village's purchase of two properties as "open space" reservoir and wetlands projects by leasing oil and gas rights without obtaining consent of the Ohio Public Works Commission (OPWC); by obtaining oil and gas rights, lessee's assignee also obtained right to use the surface of the property to gain access to oil and gas below, which was in direct contradiction to use and development restrictions that plainly prohibited any use of property that did not involve "open space with trails" and "passive recreational appurtenances," and it was of no consequence that assignee had yet to disturb property in any way.

