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EMINENT DOMAIN - GEORGIA

Schroeder Holdings, LLC v. Gwinnett County

Court of Appeals of Georgia - January 5, 2023 - S.E.2d - 2023 WL 109401

Landowner and others filed complaint and petition for writ of certiorari against county to recover damages and equitable relief after county denied rezoning application resulting in inverse condemnation and violation of substantive due process.

The Superior Court granted county's motion for summary judgment. Plaintiffs appealed.

The Court of Appeals held that:

- Denial of rezoning application was not quasi-judicial decision that could only be challenged by writ of certiorari;
- Just Compensation Provision of state constitution was waiver of sovereign immunity with respect to inverse condemnation claim; and
- Landowner failed to establish that county waived sovereign immunity barring substantive due process claim.

Just Compensation Provision of state constitution was waiver of sovereign immunity with respect to landowner's inverse condemnation claim seeking damages and equitable relief after county denied rezoning application; nothing indicated that county had invoked the power of eminent domain.

Landowner failed to establish that county waived sovereign immunity barring substantive due process claim arising out of denial of rezoning application, where landowner did not cite any constitutional or statutory authority that expressly or impliedly waived sovereign immunity for all zoning cases.

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