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Rattray v. City of Brownsville

Supreme Court of Texas - March 10, 2023 - S.W.3d - 2023 WL 2438952

Homeowners brought negligence action against city alleging that city's negligent use of motor-driven equipment to open and close sluice gates in resaca and to pump water resulted in stormwater accumulation that flooded their homes.

The 107th District Court denied city's plea to the jurisdiction. City filed interlocutory appeal, and the Corpus Christi – Edinburg Court of Appeals reversed and remanded with instructions. Homeowners filed petition for review, which was granted.

The Supreme Court held that:

- Sluice gate was put to "operation or use" within meaning of Texas Tort Claims Act, and
- Homeowners met their burden at motion to dismiss stage to create a fact issue on whether their property damage arose from city's closure of sluice gate.

Under Tort Claims Act sections providing an exception to immunity for property damage, injury, and death "proximately caused" by the negligence of an employee if such damage, injury, or death "arises from" the operation of a motor-driven vehicle or equipment, the "proximately cause" and "arises from" requirements are separate and independent, so that satisfying the "arises from" requirement does not excuse a plaintiff from demonstrating proximate cause.

Motor-driven sluice gate in resaca was put to "operation or use" within meaning of Texas Tort Claims Act provision waiving immunity for the damage which "arises from the operation or use of a motor-driven vehicle or motor-driven equipment," where city employees closed the gate during a rainstorm, gate blocked the water in the resaca as intended, and the flooding of properties happened within about an hour of the closure; while city claimed that the owners of the flooded properties were actually complaining about the city's failure to open the gate, such nonuse was only a factor due to the city's initial use and operation of the gate by closing it.

Homeowners met their burden to create a fact issue on whether their property damage arose from city's closure of motor-driven sluice gate in resaca during rainstorm which flooded homeowners' properties, as required to survive city's plea to the jurisdiction; rainstorm, the gate's closure, and the flooding all happened within the same episode of events, one closely following the occurrence of the other, there was no significant geographical attenuation between the gate and the homeowners' properties, and homeowners potentially could show that rainstorm itself did not make property damage inevitable absent the closure of the gate.

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