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CONTRACTS - ILLINOIS

PML Development LLC v. Village of Hawthorn Woods

Supreme Court of Illinois - June 15, 2023 - N.E.3d - 2023 IL 128770 - 2023 WL 4003826

Developer brought action against village alleging breach of development agreement under which developer was authorized to fill and grade property in exchange for donating it to village, and village counterclaimed for breach of contract.

After a bench trial, the Circuit Court entered judgment for developer. Village appealed and developer cross-appealed. The Appellate Court affirmed in part, reversed in part, and vacated in part. Developer petitioned for leave to appeal, which was granted.

In a case of first impression, the Supreme Court held that:

- A non-breaching party's decision to continue performing after a material breach is a factual question reviewed under the manifest weight of the evidence standard;
- Record supported finding that developer elected to continue performing following village's material breach;
- Record supported finding that village elected to continue performing following developer's material breach;
- Village materially breached agreement via non-issuance of permit, imposition of noncontractual obligations, and interference with means and methods;
- Developer materially breached agreement via non-conveyance of property, non-funding of drawdown account, and failure to reconstruct road; and
- Each party had a viable breach of contract claim following material breaches by both parties but elections to continue.

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