

Bond Case Briefs

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Luster v. Village of Ashmore

United States Court of Appeals, Seventh Circuit - August 2, 2023 - 76 F.4th 535

Putative purchaser of residential property, who was buying property on contract, brought § 1983 action against village, alleging village violated purchaser's due process rights when it acquired the property for a municipal park and required purchaser to vacate home.

The United States District Court for the Central District of Illinois dismissed action. Purchaser appealed.

The Court of Appeals held that:

- Alleged availability of adequate post-deprivation remedies did not preclude purchaser's due process claim, and
- Damages were a permissible remedy for claim.

Alleged availability of adequate post-deprivation remedies did not preclude putative purchaser's § 1983 claim against village for procedural due process violation based on village acquiring home, which purchaser was buying on contract, for a municipal park and requiring purchaser to vacate home, where purchaser did not allege that he was deprived of his property interest by the random, unauthorized acts of any village employee but rather that village, as part of its plan to establish a municipal park, deliberately deprived purchaser of his property interest and attempted to remove him without prior notice and an opportunity to be heard.

Damages were a permissible remedy for putative purchaser's § 1983 claim against village for procedural due process violation based on village acquiring home, which purchaser was buying on contract, for a municipal park and requiring purchaser to vacate home; given that house was gone, damages were purchaser's only possible remedy.