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EMINENT DOMAIN - GEORGIA

Columbia County v. Satcher

Court of Appeals of Georgia - October 23, 2023 - S.E.2d - 2023 WL 6968848

Landowners brought action against county, alleging nuisance, inverse condemnation, trespass, negligence, and adverse possession arising from allegedly defective stormwater drainage system.

Following bench trial, the Superior Court entered judgment in favor of landowners. County appealed.

The Court of Appeals held that:

- Claims for trespass, nuisance, and negligence were duplicative of landowners' inverse condemnation claim and would be analyzed as one claim under a theory of nuisance;
- Even if landowners' first observance of harm from drainage system triggered accrual of limitations period for nuisance claim, landowners experienced separate harm, triggering separate accrual of limitations, on date that parking lot on property, which was built over landowners' drainage pipe, collapsed following heavy rains and failure of the pipe;
- Landowners' presentation of ante litem notice to county allowed recovery only for claims that accrued prior to the presentation of notice rather than also for claims that accrued after presentation of notice;
- Any use of landowners' drainage pipe by county was not done under a claim of right, as would be required for county to obtain prescriptive easement in pipe; and
- Bona fide controversy existed between landowners and county, precluding award of attorney fees to landowners premised on purported stubborn litigiousness by county.

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