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EMINENT DOMAIN - NORTH DAKOTA

Sargent County Water Resource District v. Beck Revocable Living Trust

Supreme Court of North Dakota - December 15, 2023 - N.W.2d - 2023 WL 8658361 - 2023 ND 230

County water resource district brought eminent domain action seeking to condemn landowners' property for a drainage project.

Following a bench trial, the District Court condemned property, denied landowners' motion for a new trial, but concluded that landowners' arguments were not foreclosed for failure to appeal water district's "Resolution of Necessity" or barred by res judicata or collateral estoppel. Landowners appealed, and water district cross-appealed.

The Supreme Court held that:

- Applying doctrine of res judicata to bar any further review would have been unjust;
- Landowners' arguments against eminent domain were not barred by collateral estoppel;
- Water district's board obligated costs for drainage project beyond maximum maintenance levy and authorized accumulation of a fund exceeding six-year maximum levy without landowner approval, in violation of statute governing maintenance of drainage projects; and
- Project did not satisfy additional cost limitations for public use under statute authorizing eminent domain for certain public uses.

Applying doctrine of res judicata to bar any further review of matters contained in water resource district's resolution of necessity related to drainage project would have been unjust in eminent domain proceeding seeking to condemn landowners' property, even though landowners failed to timely appeal resolution of necessity which barred judicial review; district court had noted in landowners' underlying declaratory judgment action that water district, being well aware of opposition to project and a request for a vote, considered and passed resolution of necessity without including it on agenda of a regularly scheduled meeting, then erroneously told landowners at the next meeting that time to appeal decision had already expired, and statement in resolution was misleading in that water district sought permanent and temporary easements over properties without including legal description of affected properties.

Landowners' arguments against eminent domain action brought by county water resource district seeking to condemn landowners' property for drainage project were not barred by collateral estoppel, notwithstanding landowners' prior action against water district, seeking declaratory and injunctive relief; landowners did not have a fair opportunity to be heard prior to eminent domain action given that final judgment by district court dismissing declaratory judgment action for lack of appellate subject matter jurisdiction, which dismissal was affirmed by Supreme Court, was not on the merits.

County water resource district's board obligated costs for drainage project beyond the maximum

maintenance levy and authorized the accumulation of a fund exceeding six-year maximum levy without landowner approval in violation of statute governing maintenance of drainage projects.

Assuming that drainage project qualified as “maintenance” within meaning of statute governing maintenance of drainage projects, project as approved required an unlawful accumulation of funds in excess of the maximum permissible levy and unlawfully obligated county water resource district for costs beyond the maximum maintenance levy under that section, and therefore project did not satisfy additional cost limitations for public use under statute authorizing eminent domain for certain public uses.