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EMINENT DOMAIN - TEXAS

JRJ Pusok Holdings, LLC v. State

Court of Appeals of Texas, Houston (14th Dist.) - December 28, 2023 - S.W.3d - 2023 WL 8939318

Successor-in-interest of landowners brought action against the State and the Department of Transportation's Director of Right of Way in his official capacity, asserting violations of its statutory right to repurchase, inverse condemnation, ultra vires, and sought mandamus and declaratory relief.

The County Civil Court granted defendants' plea to the jurisdiction. Successor-in-interest appealed.

The Court of Appeals held that:

- Successor-in-interest alleged a valid waiver of State's sovereign immunity;
- Successor-in-interest's right to repurchase was not vested; and
- Ultra vires exception to sovereign immunity did not apply.

Landowners' successor-in-interest alleged a valid waiver of State's sovereign immunity based on violations of its statutory right to repurchase if the property subsequently becomes unnecessary for public use, in successor-in-interest's action against the State, alleging that the State acquired a portion of landowners' property though eminent domain for the development of a highway improvement project when landowners entered into a settlement with the State; State took landowners' property for the project and compensated them for the taking, and any language in landowners' settlement or deed executed pursuant to the settlement did not change the manner of acquisition, which was fundamentally involuntary and in the manner of eminent domain.

Landowners' successor-in-interest's statutory right to repurchase if the property acquired through eminent domain subsequently becomes unnecessary for public use was not vested, and thus successor-in-interest failed to plead a valid inverse condemnation claim, in successor-in-interest's action against the State, alleging that the State acquired a portion of landowners' property though eminent domain for the development of a highway improvement project when landowners entered into a settlement with the State; although successor suggested that it retained a statutory reversionary interest, that interest could be changed or abolished at any time, and deed executed pursuant to the settlement contained no reversionary or future interest, it merely contained a reservation for oil, gas, and sulfur.

Ultra vires exception to sovereign immunity did not apply, in landowners' successor-in-interests' action for mandamus and declaratory relief against the Department of Transportation's Director of Right of Way in his official capacity, asserting violations of its statutory right to repurchase if the property acquired through eminent domain subsequently becomes unnecessary for public use, which was based on Director's alleged failure to comply with statutory notice and offer requirements; Director had authority to determine whether successor-in-interest was entitled to repurchase the property.

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