

Contra Costa Sanitary District V. Superior Court Of Contra Costa County

Court Case Brief

Name: Central Contra Costa Sanitary District (a Public Corporation) V. Superior Court Of Contra Costa County et al.

Citation: 34 Cal.2d 845

Plaintiff and Appellant: Central Contra Costa Sanitary District

Defendant and Respondent: Superior Court Of Contra Costa County

Original Case Heard: Unknown

Case Appealed To: California Supreme Court

Date Submitted: Unknown

Date Decided: March 3, 1950

Overview of the Case

The Central Contra Costa Sanitary District wanted to obtain an easement for the construction of a sewer line over the property of Anne Fish Burgess. The District Court prevented the Sanitary District from doing this. The District Court based its decision on the grounds that the Sanitary District was not one of the public corporations specifically named in California State Law to have the authority to do so. That decision was appealed to the California Supreme Court. The California Supreme Court decided that the Sanitary District did indeed have the right to obtain the land through the authority granted to it by the section of state law in question.

Facts of Case

[1] In 1950 the Central Costa County Sanitary District operated a sanitary sewer system in Contra Costa County, embracing an area of approximately 30,000 acres and serving a population of about 43,000 people. The facilities in use at the time of the case included a treatment plant which handled 3,000,000 gallons of sewage daily, and a main trunk pipeline that was 24 miles long. At the time of the case, there were approximately 115 miles of collecting sewer lines.

[2] In connection with the construction in the Walnut Creek area, the Health Office of Contra Costa County certified to the governing board of the Sanitary District that investigation had disclosed unsanitary, unhealthful, and dangerous conditions in the area. On the basis of that report, the Sanitary District, in accordance with Section 5000 et seq.

of the Streets and Highways Code, awarded a contract for the construction of a network of sewer pipes.

[3] Through negotiation with property owners, the district obtained easements or right of way for the sewer system improvements on more than 90% of the land in private ownership. The construction of these improvements required an easement over the lands of Anne Fish Burgess.

[4] The Sanitary District filed a motion, or request with the court, to take immediate possession of the required land after the district made a deposit of an amount that was to be fixed by the court. In support of this motion, an affidavit of an appraiser was filed in which the appraiser declared the reasonable market value of the required land at \$607.00. There was no debate about the sufficiency of this amount.

[5] The motion of the Sanitary District was denied by the lower court on 2 grounds. (1) The Sanitary District was not one of the public corporations specifically named in article 1, section 14, of the Constitution of the State of California, or a "similar public corporation" within the meaning of that section. (2) The use of the land that the Sanitary District was seeking was not a use that allowed immediate possession of the property. (This immediate possession of private property was only allowed when the property was required for a reservoir, or for right-of-way.)

Main Issues Raised In The Case

[1] Narrow Scope: Does a Sanitary District have the authority to take private property or an easement over private property, as granted under the California State Constitution - Article 1 - Section 14?

Broad Scope: Does a public entity or government agency have the authority to take private property for public purposes when that power has not been specifically and explicitly given to that public entity or government agency by the people?

[2] Narrow Scope: If the Sanitary District did have a right to take possession of the private property, did it also have the right to take immediate possession of that private property?

[3] Is an easement for a sewer line a "right-of-way" as specified in Article 1 - Section 14 of the California State Constitution?

[4] Narrow Scope: Did the California Supreme Court, by way of its final decision in this case, grant to public entities or government agencies, power or authority not intended by the people of California in the writing of Article 1 - Section 14 of the California State Constitution?

Broad Scope: Private property rights are an important part of our national economy and our national culture. Did the judiciary overstep its bounds in granting to a public agency the right to take private property, when this right is not specifically given in applicable law?

The Courts Decision

The Majority Opinion

Judge J Edmonds wrote the majority opinion for the court.

In her appeal, the plaintiff claimed that the Sanitary District did not have the right to take immediate possession of the easement because it had an alternative and "adequate remedy at law". In other words, the Sanitary District had another viable legal means of obtaining the land, and therefore, did not have the right to take immediate possession of that land as provided by Section 1 - Article 14 of the State Constitution. However, Judge Edmonds wrote that the ruling of the lower court that prevented the Sanitary District from taking immediate possession of the land could not be appealed by any other means, and therefore had no other remedy than the case that was before the California Supreme Court. He also stated that the fact the Sanitary District could eventually obtain the lands it needed by other means was no substitute for the right to immediately take and use the contested land.

Resolution of Issue #2: The court decided that the Sanitary District did have a right to take immediate possession of the contested property.

Mr. Edmonds states that the plaintiff relied on the principle of "ejusdem generis" as her basis for the argument that the Sanitary District does not have the same powers granted to the "similar public corporations" named in Article 1 - Section 14 of the California State Constitution. All of these corporations, the plaintiff asserts, are involved in the conservation of water, while a Sanitary District is not directly involved in this function. However, in the majority opinion, Mr. Edmonds states the general purpose of the agencies named in Article 1

- Section 14 of the State Constitution was the protection of public health. If this is the case, then the Sanitary District would fall under the term "similar public corporations" as it is directly involved in the protection of public health.

This would mean the Sanitary District would have the power to take immediate possession of the contested property.

Resolution of Issue #1: The court decided that the Sanitary District did have a right to take the private property of the plaintiff, as it was one of the "similar public corporations" mentioned in Section 1 - Article 14, of the California State Constitution. It based this decision in part on the fact that the Sanitary District obtained authority to protect public health under the California Health and Safety Code. All of the public entities specifically named under that section of the Constitution were involved, not solely in the conservation and protection of water, as the plaintiff asserted, but in the protection of public health. This common purpose shared between sanitary districts and the corporations specifically named in the subject section of the Constitution meant that the Sanitary District was included in the public entities granted authority under this section.

Even if the public health factor was not sufficient a sanitary district is specifically empowered by the Health and Safety Code - Section 6512, to construct storm water drains, as well as storm water collection, outfall and disposal systems. It also shares with municipal utility districts the power to construct sewer systems. Judge Edmonds states that "...It would indeed be a narrow construction of the words 'similar public corporation' to distinguish, by so fine a line, between the authority of a sanitary district which controls storm water in order to avoid pollution of drinking water, and that of a water conservation district, which guards against damage of storm waters by the maintenance of irrigation facilities. To accomplish their purposes, all of the public corporations named must construct pipes across private lands, and all of them equally need to expedite construction by immediate occupancy of property upon which facilities are built."

A major element of the issue before the court, was whether or not a decision in favor of the Sanitary District would grant to public entities rights not intended by the voters of California. The plaintiff asserted that this was the case, since a sanitary district was not one of the public corporations specifically mentioned in Article 1 - Section 14 of the California State Constitution. However, in writing the majority opinion Judge Edmonds makes a statement to contradict this

argument.

"The voters were told: 'Since the sovereign agency must be entitled to eventually obtain the required property, it has long been recognized that the practical and sensible thing was to allow the public agency to take possession at once so that construction work and development would not be delayed.' And a further statement of the purpose of the amendment reads: 'This amendment does away with unfair discrimination which now exists between districts performing the same functions.'"

The Minority Opinion

Judge J. Carter wrote the minority opinion for the court.

Judge Carter explains, that in the minority opinion, the court's decision has "read words into a constitutional provision when there is no justification" to do so. He asserts that the California State Constitution is meticulous in specifying which public agencies can be given the power of immediate possession of property in eminent domain cases, and that Sanitary Sewer districts are not one of the type agencies granted this power by the constitution.

Judge Carter also mentions historical facts in support of the minority opinion. Before the year 1918 there was no provision in the California State Constitution for immediate possession of property condemned under the principle of eminent domain. When provisions allowing eminent domain were added in 1918 and again in 1934, each government agency granted the right of immediate possession by the constitution was specifically mentioned. Based on those facts Judge Carter states the following: "Thus the consistent practice has been to specifically name or describe the public agencies that have such power. For this court to add another distinctly named and constituted agency is manifestly out of harmony with that practice and the clear intent of the electorate."

In part of its argument, the majority opinion stated that the common purpose of all the agencies named in Article 1 - Section 14 of the California State Constitution was protection of public health. It argued that although Sanitary Districts were not mentioned specifically, that because it was involved in protecting public health, it was included in the "similar public corporations" mentioned. In the minority opinion Judge Carter disagrees, stating that the purpose of the agencies granted the power of eminent domain and immediate possession

under the section of the State Constitution were involved, not in protecting the public health, but in conserving and protecting the quality of water, a valuable state resource. The minority opinion states that a Sanitary District would thus be excluded from the "similar public corporations" in this case because: "A sanitary district...is primarily concerned with the disposal of sewage...Only incidentally is it interested in water control, that is, disposal of drainage waters which is naturally pertinent to its function for it may use the same facilities for both sewage and flood waters."

Judge Carter uses an example in support of the minority opinion. He points out that a mosquito abatement district is another public agency in concerned with the disposal, not conservation of water, like a sanitary district. Part of the duties of a mosquito district is to drain or poison stagnant pools of water that may serve as a breeding ground for the insects. When using this example Judge Carter strongly asserts, "I seriously doubt if even the majority of this court would go the absurd length of holding the framers of amendment to the Constitution intended that a mosquito abatement district is given the power to take immediate possession of property it sought to acquire in connection with its abatement program. I can see no basis for the distinction between such a district and the sanitary district here involved."

Judge Carter mentions another concern with the decision of the majority in the minority opinion. His concern centers on the compensation of a private land owner for the value of land taken by the government agency. This concern is magnified when the government agency is allowed to take immediate possession of the land it seeks, before making full compensation. He states: "In this connection, we may take judicial notice that there are many public agencies which are limited in the amount of money made available to them in the performance of the functions which they are authorized to perform. It is therefore, not beyond the realm of probability that such an agency may take immediate possession of property upon a preliminary showing of value and not be able to respond in the amount of compensation and damages which will subsequently be awarded by the jury in the in the trial of the eminent domain proceeding. In such event, the public agency would have the property without the payment of the just compensation and damages to which the owner is entitled to under both the federal and state Constitutions." In other word, a government agency could take immediate possession of private property, and then be unable to pay for it. In the minority opinion this power should only be given to agencies specifically named by the

electorate or people of the state.

Court Case Citations

34 Cal.2d 847
34 Cal.2d 848
34 Cal.2d 849
34 Cal.2d 850
34 Cal.2d 853
34 Cal.2d 854

Cited Laws

California Streets and Highways Code - Section 5000
California Health and Safety Code - Section 6512

Special Note

The ejusdem generis rule mentioned in the majority opinion is a "rule of construction". (It is a legal principle that governs how a law can be interpreted after it is written. It states that, "general words, (as in a statute), that follow specific words in a list, must be construed as referring only to the type of things identified by the specific words." In this case, the "specific words" were the public corporations or agencies specifically named in Article 1, Section 14 of the California State Constitution. The "general words" that needed interpretation were the words "similar public corporation".