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REAL PROPERTY

Amoco Production Co. v. United States, 852 F.2d 1581

Newton & Sons Sheep Co. conveyed a one-half interest in the minerals in certain Utah land to Bass Enterprises. The land became involved in a quiet title action in which the United States claimed a one-half interest in the mineral rights. Newton and Bass were joined in the action. Newton claimed if the United States had a one-half interest then Bass could only receive one-half of the one-half interest that the Newtons still owned. Bass disputed this interpretation, claiming that it received one-half of the minerals regardless of whether the United States' claim was upheld. The district court upheld the United States' claim to one-half of the minerals. The district court held that Bass had the other one-half.

Because the court reversed the district court in the related action involving the United States and found that the United States had no claim to a one-half interest, the court noted that the Bass and Newton interpretations in this action were no longer in conflict.

Amoco Production Co. v. United States, 852 F.2d 1574

In 1942, the Federal Farm Mortgage Corp. (FFMC) conveyed certain land in Utah to the Newtons by special warranty deed. Believing it had retained a mineral interest in the land, the FFMC later conveyed that interest to the United States. The Newtons, believing they had received all the mineral rights in the land, later conveyed a mineral lease to Amoco Production Co. The recorded deed did not contain a reservation of mineral rights. The district court entered judgment quieting title in the United States.

The Tenth Circuit held that the recorded deed presumptively transferred the mineral rights to the Newtons and that the government failed to overcome that presumptive transfer with clear and convincing evidence. The court reversed the district court's judgment and quieted title to the disputed minerals in Amoco.

Landmark Land Co. of Oklahoma v. Buchanan, 874 F.2d 717

Petitioner filed suit against city officials, a county commissioner, and officers in an Air Force base, alleging a taking of property without just compensation, and denial of due process and equal protection. The action was based on allegations that defendant attempted to impede and prevent petitioner from constructing a shopping center on his property by refusing to grant certain necessary building permits while a proposed zoning ordinance affecting the subject property was being considered. Petitioner appealed to the City Board of Adjustment, which upheld the refusal. The district court then dismissed on grounds that petitioner

failed to state a claim upon which relief could be granted. Petitioner appealed to the Tenth Circuit Court of Appeals.

The Tenth Circuit affirmed. First, it held petitioner's takings, substantive due process, and equal protection claims were not ripe for action, since a "final decision" by local authorities, setting forth the level of development permitted on the subject property, had not yet been rendered. Second, the court held petitioner's procedural due process claim unfounded due to the hearing granted before the City Board of Adjustment.

Pueblo of Santa Ana v. Baca, 844 F.2d 708

Defendant-appellants appeal from the district court's judgment allowing plaintiff-appellee to eject appellants from a parcel of land and to recover damages caused by their trespass. Appellants claim that the court erred in relying on the boundaries established by an 1813 adjudication by Spanish authorities rather than on the boundaries set forth in an official United States survey. Affirmed.

The panel found that appellee's expert convincingly established that the adjudication settled the ownership of the disputed parcel. Thus, the panel upheld the district court's findings that the adjudication conclusively determined the dispute in favor of appellee. The suspect survey should not outweigh the findings of the detailed adjudication.

The panel also found that the fence that appellee constructed and maintained along the northern and eastern boundary of the disputed parcel was plainly sufficient to inform any individual of appellee's occupancy. The panel concluded that appellee adversely possessed the land and should be entitled to absolute ownership.

United States v. 2560 Acres of Land, 836 F.2d 498

A flood control project caused a taking of real property and mineral rights. The district court held fully compensating a landowner in a condemnation suit requires consideration for diminution of value of property not expressly taken. The court of appeals, however, held the method of valuation of mineral interest using the "net income approach" was correct.

Messiah Baptist Church v. Jefferson County, 859 F.2d 820

Appellant church purchased agricultural property for church use. Zoning regulations allowed for such a use if a special permit were granted. The county denied the special use permit, and the church filed suit alleging the zoning regulation was an invalid infringement upon the church's religious freedom. The court granted appellee's motion for summary judgement. Affirmed.

The court of appeals held that nothing in the record indicated any friction between the appellant's religious beliefs and the zoning regulations, and thus, the district court's dismissal of the action was proper.

Sant v. Stephens, 848 F.2d 1119

In an action filed in federal district court, plaintiff Sant attempted to vacate defendant Stephens' certification of redemption and public trustee deed. Since this required resolution of questions regarding Colorado law, two issues were certified to the Colorado Supreme Court: (1) whether a lien created by § 22-2 of the Glenwood Springs Municipal Code for unpaid utility services is entitled to redemptive rights under C.R.S. § 38-39-103 and (2) whether such a lien's redemptive rights are extinguishable as the whole property by the failure to exercise them at a public trustee sale of an undivided one-half interest.

The Colorado Supreme Court answered the first question in the affirmative and the second question in the negative. Since Glenwood Springs is a home rule city, it possesses the plenary power to pass ordinances concerning local and municipal matters so long as they do not conflict with state statutes. Since no state statute prohibits a home rule city from creating liens, the ordinance is valid. On the second issue the court held that a lien attaching to the interests of both co-tenants carries distinctive redemptive rights as to each interest. Thus, the failure to redeem from the first foreclosure sale, which covered the interest of only one co-tenant, did not extinguish the lien on the second co-tenant's undivided one-half interest.

