MISSOURI COURT OF APPEALS
WESTERN DISTRICT

JTC OIL COMPANY, INC., ET AL.,
APPELLANT

vs.

CITY OF GRANDVIEW,
RESPONDENT

DOCKET NUMBER WD82859

DATE: APRIL 21, 2020

Appeal from:

The Circuit Court of Jackson County, Missouri
The Honorable S. Margene Burnett, Judge

Appellate Judges:

Division Four: Karen King Mitchell, Chief Judge, Edward R. Ardini, Jr. Judge and Thomas N. Chapman, Judge

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Attorneys:

Julie E. Parisi, for Appellants

Colin W. McClain, for Respondent

Timothy J. Kingsbury, Co-Counsel for Respondent

Joseph S. Gall, Co-Counsel for Respondent

Jonathan M. Soper, Co-Counsel for Respondent

Lauren E. McClain, Co-Counsel for Respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

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WESTERN DISTRICT

JTC OIL COMPANY, INC., ET AL., APPELLANT,
v.
CITY OF GRANDVIEW, RESPONDENT.

WD82859 Jackson County

Before Division Four Judges: Karen King Mitchell, Chief Judge, Edward R. Ardini, Jr., Judge, and Thomas N. Chapman, Judge

The parties in this appeal dispute whether an oil and gas lease ("the Lease") terminated for lack of oil production. The Lease was entered into in 1986 between Sunrise Dairy Farms and Kanzou Exploration. Sunrise Dairy leased to Kanzou Exploration the right to mine and produce oil and gas on Sunrise Dairy's property—which was located within the boundaries of the City of Grandview ("the City")—for a term of one year "and as long thereafter as oil or gas, or either of them, is produced from the land by the lessee."

In 1988, Appellant Jerry Kerr ("Kerr") purchased a portion of Sunrise Dairy's property, subject to the Lease. By virtue of his purchase, he was entitled to receive a percentage of the oil royalties. Kerr sold his property in 2001, but reserved the oil and mineral rights underlying the surface estate.

After a series of transfers, Appellant JTC Oil Company, Inc. ("JTC") purchased the Lease in 2013. JTC began efforts to drill additional oil production wells, but was halted by the City, which informed JTC that City approval was required for the drilling. JTC filed applications with the City for a conditional use permit and conceptual development plan; those applications were denied.

JTC filed a petition in the trial court asserting, *inter alia*, a claim of inverse condemnation against the City. Kerr was permitted to intervene and he, too, filed a petition asserting a claim of inverse condemnation. The City moved for summary judgment, arguing that JTC and Kerr had no compensable interest in the property because the Lease had terminated due to non-production. The City contended that there were several periods from 1988 through 2008 in which the lessee failed to produce oil for over one year, thereby terminating the Lease. In response, JTC and Kerr asserted that the City—as a non-party to the Lease—lacked standing to challenge the Lease's validity and that the Lease had not terminated for lack of oil production. The trial court granted the City's motion, finding that the Lease had terminated due to non-production and, as a result, JTC and Kerr had no property interest in which to assert rights against the City. JTC and Kerr appealed.

REVERSED AND REMANDED.

Division Four holds:

(1) The trial court did not err in allowing the City to challenge the Lease's validity. To prevail on their claims of inverse condemnation, JTC and Kerr were required to prove they had a valuable property right which was taken by the City. It was permissible for the City to challenge the "valuable property right" element of JTC's and Kerr's claims by showing the Lease terminated and therefore they possessed no property right which the City could take.

(2) The trial court erred in granting summary judgment to the City on JTC's and Kerr's claims of inverse condemnation. The evidence submitted by JTC and Kerr in response to the City's motion for summary judgment created a genuine issue of material fact as to whether the wells failed to produce oil throughout the life of the Lease.

(3) The trial court erred in concluding that the Lease had terminated for non-production without determining that the Lease had been abandoned. Upon finding that a period of non-production occurred, the inquiry then becomes whether the non-production constituted abandonment of the Lease or simply an excusable temporary cessation of production. Here, the trial court conducted no such inquiry.

Opinion by: Edward R. Ardini, Jr., Judge Date: April 21, 2020

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