

Supreme Court of Texas Property Law Topics

Crosstex N. Tex. Pipeline, L.P. v. Gardiner

No. 15-0049

Case Summary written by Bailey McGowan, Staff Member.

JUSTICE BOYD delivered the opinion of the Court.

Crosstex North Texas Pipeline, L.P. (Crosstex) bought a twenty-acre tract of land in Denton County in 2005 to operate a natural-gas pipeline. Crosstex purchased an easement from Andrew and Shannon Gardiner (Gardiners) in January 2006 to run pipeline in the southwest corner of the Gardiners' property. Crosstex's twenty-acre property was directly across a farm-to-market road from the Gardiners. Crosstex installed the pipeline and later built a compressor station in May 2007, installing "hospital-grade mufflers." These mufflers were noise-mitigation measures but were not as effective as other mufflers available.

Shortly after Crosstex activated the muffler station, the Gardiners and other local residents complained about the noise to Crosstex. Crosstex's public relations specialist visited the compressor station and agreed the noise was louder than Crosstex intended. Through a series of events Crosstex attempted to further mitigate the noise by building structures, installing sound blankets and air intake silencers, and planting vegetation. The Gardiners continued to complain even after Crosstex implemented the various measures and filed a lawsuit in May 2008.

The Gardiners' lawsuit included claims for private nuisance, ordinary negligence, and gross negligence. The Gardiners later amended to include both intentional and negligent nuisance. The trial court issued a directed verdict for Crosstex on the ordinary-negligence claim and a jury found Crosstex did not intentionally or unreasonably create a nuisance as to the Gardiners' ranch; however the jury also found Crosstex did negligently create a nuisance, which caused a \$2 million decline in the Gardiners property value. On Crosstex's appeal, the Second Circuit Court of Appeals held the jury's finding of a negligently created nuisance legally sufficient but not factually sufficient, remanding the case for a new trial.

Issue: Whether the Gardiners claim of nuisance was legally and factually sufficient?

The Supreme Court of Texas used the case as an opportunity to clarify the definition of a nuisance as “a condition that substantially interferes with the use and enjoyment of land by causing unreasonable discomfort or annoyance to persons of ordinary sensibilities attempting to use and enjoy it.”

The Court explained a nuisance is a legal injury, meaning a defendant’s actions interfered with the plaintiff’s legal right. Substantial for the definition was clarified to avoid “trifles.” Unreasonableness was broken down into three parts: the effect on the plaintiff’s comfort or contentment, whether the conduct would violate an objective standard, and a balancing of factors depending on the specific facts.

Next, the Court confirmed the three general categories of conduct which may give rise to a nuisance claim: intentional, negligent, and strict-liability. For an intentional nuisance, the defendant must have subjectively intended to cause the interference or actually known or believed the interference would occur and not just intended to engage in the conduct that caused the interference. A negligent nuisance is governed by ordinary negligence principles, requiring the plaintiff to prove that the defendant’s negligent conduct caused the nuisance. A strict-liability nuisance is for abnormally dangerous conduct that includes a “high risk of injury caused by legitimate but dangerous activity.” The Court also addressed remedies for a private nuisance stating that the loss of market value should be the difference between the reasonable market value of the property immediately before and after the injury.

Finally, the Court held that the Gardiners had legally sufficient evidence to support their nuisance claim, pointing to the fact that Crosstex created and attempted to mitigate the noise problem. The Court held that the Gardiners met the threshold of more than a “scintilla” of evidence for a reasonable juror to conclude the Gardiners facts to be true. Crosstex did not meet its burden of ordinary care by a prudent person and that the breach of duty was continuing to let the compressors operate beyond reasonable levels. But, the Court also held there was not enough factually sufficient evidence to support a nuisance finding and remanded the case for a new trial. Also, the Court did not

find the compressor station was abnormally dangerous to support a strict-liability nuisance claim.

Coyote Lake Ranch, LLC v. Lubbock

No. 14-0573

Case Summary written by Camille Youngblood, Staff Member.

JUSTICE HECHT delivered the opinion of the Court.

Coyote Lake Ranch is located in the Texas Panhandle, and is used for agriculture and raising cattle. Parts of the Ranch are irrigated cropland, the Ogallala running beneath it. The City of Lubbock bought the Ranch's groundwater to help bring water to Lubbock residents, and surrounding towns. The deed provided certain stipulations about the number and locations of wells that the City was allowed to drill.

In 2012, the City unveiled a plan to increase the use of the groundwater and drilling efforts on the Ranch. The Ranch opposed this increased drilling program because of fears that it would unnecessarily erode and injure the surface of the land. Despite the objections of the Ranch, the City began work on the proposed drill sites.

The Ranch sought a temporary injunction after the City began to mow the native grass on the land. The Ranch argued that the mowed grass would not grow back and by removing the vegetation, the City may have caused "destructive wind erosion, exacerbated by cattle tromping over mowed grass."

The trial court granted the temporary injunction. The injunction prohibited the City from preparing the land for drilling, or erecting power lines in the well fields without consulting the Ranch regarding the impact it would have on the land.

The City appealed the injunction. The Court of Appeals found for the City of Lubbock, and dissolved the temporary injunction. The Ranch petitioned for review, which was granted.

ISSUE: Whether the well-established accommodation doctrine applies when the controversy regards a landowner and the groundwater interest owner.

The Court outlines the common law accommodation doctrine, that "[a]bsent an agreement to the contrary, an oil-and-gas lessee has an implied right to use the land as reasonably necessary to produce and remove the minerals but must exercise that right with due regard for

the landowner's rights." The accommodation doctrine has previously only applied to mineral interests, however, the court sees similarities between mineral and groundwater estates.

The Court analyzed both the rights of the severed mineral estate and the severed groundwater estate and found that the "[c]ommon law rules governing mineral and groundwater estates are not merely similar; they are drawn from each other or from the same source."

However, the City argued that the two could be contrasted from each other because while mineral estates are dominant, and surface estates are servient, groundwater estates are not dominant. The Court disagreed, because the rights of a severed estate must be weighed with the interests and rights of the surface in mind. A groundwater interest owner must measure their actions that are reasonable and necessary with due regard to the landowner's rights.

The Court held that the accommodation doctrine extends to issues regarding severed groundwater estates and surface estates. The Court held that "the surface owner must prove that (1) the groundwater owner's use of the surface completely precludes or substantially impairs the existing use, (2) the surface owner has no available, reasonable alternative to continue the existing use, and (3) given the particular circumstances, the groundwater owner has available reasonable, customary, and industry-accepted methods to access and produce the water and allow continuation of the surface owner's existing use."

The Court, however, affirmed the court of appeal's reversal of the injunction because it precluded the City from performing any activity on the surface land of the Ranch.

JUSTICE BOYD filed a concurring opinion.

Justice Boyd disagreed with the court's extension of the accommodation doctrine in this case. He found that the City and the Ranch had expressly contracted around the issues discussed. He noted that the City was granted the right to choose to drill wells wherever it deemed necessary, because the express terms of the agreement allow it to drill wells "at any time and location." Boyd disagreed that the Ranch should be allowed to rely on the doctrine, thus making the City form and adopt a new drilling plan for well sites.