United States Court of Appeals for the Federal Circuit

REINALDO CASTILLO, GONZALO PADRON MARINO, MAYDA ROTELLA, JULIA GARCIA, SHOPS ON FLAGER INC., JOSE F. DUMENIGO, DORA A. DUMENIGO, HUMBERTO J. DIAZ, JOSEFA MARCIA DIAZ, LUIS CRESPO, JOSE LUIS NAPOLE, GRACE BARSELLO NAPOLE, BERNARDO D. MANDULEY, NORMA A. MANDULEY, DANILO A. RODRIGUEZ, DORA RODRIGUEZ, AVIMAEL AREVALO, ODALYS AREVALO, DALIA ESPINOSA, DANIEL ESPINOSA, SOFIRA GONZALEZ, LOURDEZ RODRIGUEZ, ALBERTO PEREZ, MAYRA LOPEZ, NIRALDO HERNANDEZ PADRON, MERCEDES ALINA FALERO, LUISA PALENCIA, XIOMARA RODRIGUEZ, HUGO E. DIAZ, AND, CONCEPCION V. DIAZ, AS CO-TRUSTEES OF THE DIAZ FAMILY REVOCABLE TRUST, SOUTH AMERICAN TILE, LLC, GLADYS HERNANDEZ, NELSON MENENDEZ, JOSE MARTIN MARTINEZ, NORMA DEL SOCORRO GOMEZ, OSVALDO BORRAS, JR., LUIS R. SCHMIDT,
Plaintiffs-Appellants

v.

UNITED STATES,
Defendant-Appellee

2019-1158

Appeal from the United States Court of Federal Claims in Nos. 1:16-cv-01624-MBH, 1:17-cv-01931-MBH, Senior Judge Marian Blank Horn.

Decided: February 20, 2020

MEGHAN SUE LARGENT, LewisRice, St. Louis, MO, argued for plaintiffs-appellants. Plaintiffs-appellants Gonzalo Padron Marino, Mayda Rotella, Julia Garcia, Jose F. Dumenigo, Dora A. Dumenigo, Dalia Espinosa, Daniel Espinosa, Sofira Gonzalez, Mayra Lopez, South American Tile, LLC, Gladys Hernandez, Jose Martin Martinez, Norma del Socorro Gomez, Luis R. Schmidt, Humberto J. Diaz, Josefa Marcia Diaz also represented by LINDSAY BRINTON.

JAMES H. HULME, Arent Fox LLP, Washington, DC, for plaintiffs-appellants Reinaldo Castillo, Danilo A. Rodriguez, Dora Rodriguez.

MARK F. HEARNE, II, True North Law Group, LLC, St. Louis, MO, for plaintiffs-appellants Shops on Flager Inc., Luis Crespo, Jose Luis Napole, Grace Barsello Napole, Bernardo D. Manduley, Norma A. Manduley, Avimael Arevalo, Odalys Arevalo, Lourdez Rodriguez, Alberto Perez, Niraldo Hernandez Padron, Mercedes Alina Falero, Luisa Palencia, Xiomara Rodriguez, Hugo E. Diaz, Concepcion V. Diaz, Nelson Menendez, Osvaldo Borras, Jr. Also represented by STEPHEN S. DAVIS.

KEVIN WILLIAM MCARDLE, Environment & Natural Resource Division, United States Department of Justice, Washington, DC, argued for defendant-appellee. Also represented by JEFFREY B. CLARK, ERIC GRANT.

Before WALLACH, TARANTO, and CHEN, *Circuit Judges*.

TARANTO, *Circuit Judge*

Reinaldo Castillo and others own plots of land abutting a railroad right-of-way that was long ago granted to, and for decades used by, the Florida East Coast Railway Co. in Dade County, Florida. It is undisputed before us that, when the railway company eventually abandoned the right-of-way for rail use (the purpose for which the right-of-way was granted), full rights to the underlying land—title unencumbered by the right-of-way easement—would have reverted to whoever owned such rights, had there been no overriding governmental action. But there was such governmental action: the railway company successfully petitioned a federal agency to have the railroad corridor turned into a recreational trail. The landowners sued the United States in the Court of Federal Claims, alleging that the agency's conversion of the railroad right-of-way into a recreational trail constituted a taking of their rights in the corridor land abutting their properties and that the United States must pay just compensation for that taking. To establish their ownership of the corridor land, the plaintiffs relied on a Florida-law doctrine known as the "centerline presumption," which, where it applies, provides that when a road or other corridor forms the boundary of a landowner's parcel, that landowner owns the fee interest in the abutting corridor land up to the corridor's centerline, unless there is clear evidence to the contrary.

In proceedings on summary-judgment motions, the government argued that the landowners did not own the land to the centerline of the railroad corridor at issue. The trial court agreed with the government, holding that the only reasonable finding on the evidence in this case was that the centerline presumption was overcome or was inapplicable. *See Castillo v. United States*, 138 Fed. Cl. 707 (2018) (*SJ Op.*); *Castillo v. United States*, 140 Fed. Cl. 590 (2018) (*Reconsideration Op.*). The landowners appeal. We

conclude that the trial court misapplied the centerline presumption to the evidence. We reverse and remand.

I

A

When a railroad stops using a railroad right-of-way to operate a rail line, Section 8(d) of the National Trails System Act Amendments of 1983 (Trails Act), 16 U.S.C. § 1247(d), "allows [the] railroad to negotiate with a state, municipality, or private group (the 'trail operator') to assume financial and managerial responsibility for operating the railroad right-of-way as a recreational trail." *Caldwell v. United States*, 391 F.3d 1226, 1229 (Fed. Cir. 2004). The federal government's Surface Transportation Board (STB) has exclusive and plenary authority to "regulate the construction, operation, and abandonment of most railroad lines in the United States." *Id.* at 1228. If the railroad and trail operator reach a trail agreement and notify the STB, the STB may issue a Notice of Interim Trail Use or Abandonment (NITU), 49 C.F.R. § 1152.29(d), which permits the railroad to discontinue rail service on the right-of-way and allows for trail use of the right-of-way indefinitely. *Rogers v. United States*, 814 F.3d 1299, 1303 (Fed. Cir. 2015).

The Fifth Amendment's Takings Clause provides that private property shall not "be taken for public use, without just compensation." If, in the absence of a conversion to trail use, state law would provide for return to a person of full rights in the land, "[a] taking occurs when, pursuant to the Trails Act, state law reversionary interests are effectively eliminated in connection with a conversion of a railroad right-of-way to trail use." *Caldwell*, 391 F.3d at 1228; *see also Preseault v. United States*, 100 F.3d 1525, 1552 (Fed. Cir. 1996) (en banc). Accordingly, the government must provide just compensation to the owner of the reversionary rights eliminated by a Trails Act conversion. *See Rogers*, 814 F.3d at 1303.

B

In the fall of 1924, Florida East Coast Railway Co. (FEC Railway) obtained a 1.2-mile long right-of-way easement (of a basically north-south orientation) in Dade County, Florida, by way of four condemnation orders in the Dade County Circuit Court. *See* J.A. 708–09 (P. Russo judgment); J.A. 710–12 (R.S. Stanley judgment); J.A. 712–13 (W.H. Johnson judgment); J.A. 713–16 (J. Pyles judgment). The FEC Railway completed most of the rail line on the right-of-way in 1932 and soon began operations on the line as part of its South Little River Branch Line.

As relevant here, the land to the east of the right-of-way eventually came into the hands of two families: the Merwitzers and the Mosses. The Merwitzers owned the land to the east of the right-of-way obtained by FEC Railway in the P. Russo judgment. The Merwitzers acquired this land from a 1945 deed from Mr. and Ms. T.C. Hollett (the 1945 Hollett-Merwitzer deed). On September 30, 1947, the Merwitzers recorded a subdivision plat of the land, entitled "Zena Gardens." The recorded subdivision plat includes the following description:

> That Louis Merwitzer and Rebecca Merwitzer his wife owners of the S.E. ¼ of the S.E. ¼ of Section 2, Township 54 South, Range 40 East, Miami, Dade County, Florida, excepting therefrom a strip of land off the westerly side which is the right of way of the Okeechobee-Miami Extension of the Florida East Coast Railway have caused to be made the attached plat entitled "Zena Gardens."
>
> The Streets, Avenues and Terrace as shown together with all existing and future planting, trees and shrubbery there on are hereby dedicated to the perpetual use of the Public for proper purposes reserving to the said Louis Merwitzer and Rebecca Merwitzer, his wife, their heirs, successors or

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