



Johnson et al v. City of Richfield et al

2018 | Cited 0 times | D. Minnesota | February 22, 2018

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA CLARENCE JOHNSON and PAULINE

JOHNSON, Plaintiffs,

v. CITY OF RICHFIELD and HENNEPIN COUNTY,

Defendants.

Case No. 17 CV 1254 (PJS/HB)

ORDER

Clarence Johnson and Pauline Johnson, prose. Elizabeth C. Broodeen Kou and Mary D. Tietjen, KENNEDY & GRAVEN CHARTERED, for City of Richfield. Frederick J. Sheriden, HENNEPIN COUNTY ATTORNEY'S OFFICE, for Hennepin County. In 2016, defendant Hennepin County (the "County") purchased the residential property of plaintiffs Clarence and Pauline Johnson in order to expand the roadways in Richfield. ECF No. 1, Ex. B. The County paid the Johnsons \$225,000 for their home—an amount that exceeded what the Johnsons' own appraisers said was fair market value—and the Johnsons used the money to purchase a new home. Id., Exs. C, H, I. As part of the purchase agreement, the County also agreed to pay the Johnsons an interest differential to compensate for the higher interest rate on their new mortgage; to relocate the Johnsons' gazebo, whirlpool tub, and certain appliances to their new home; and to install a freestanding shed and accessibility ramp at their new home. Id., Ex. C.

After growing dissatisfied with the terms of the sale and with the County's performance under the contract, the Johnsons filed a complaint alleging that the County 1

had taken their property without paying just compensation in violation of the Fifth Amendment to the U.S. Constitution. The Johnsons also asserted a number of state law claims, including claims that the County had breached the terms of the purchase agreement. ECF No. 1. After the County moved to dismiss the Johnsons' complaint, ECF Nos. 16, the Johnsons moved for judgment on the pleadings and asked



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for leave to amend their complaint, ECF Nos. 10, 32, 43, 55.
In a Report and Recommendation (“R&R”) dated December 5, 2017, Magistrate

Judge Hildy Bowbeer recommended granting the County’s motion to dismiss, denying the Johnsons’ motions for judgment on the pleadings, and denying the Johnsons’ requests to amend their complaint. ECF No. 62. This matter is before the Court on the Johnsons’ objection to the R&R. ECF No. 63. The Court has conducted a *de novo* review. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). Based on that review, the Court overrules the Johnsons’ objection, adopts the R&R, and dismisses the action.

1 The Johnsons also sued the City of Richfield. But the Johnsons allege no facts plausibly suggesting that the City of Richfield was responsible for any of the allegedly illegal acts of which they complain. Thus, the Court will discuss only the Johnsons’ allegations regarding the County.

-2- The Johnsons’ only federal claim is that the County took their private property for public use without paying just compensation in violation of the Takings Clause of the Fifth Amendment. To succeed on their claim, the Johnsons would have to prove that (1) the County took their property; (2) the County did not pay the Johnsons just compensation for that property; and (3) the Johnsons exhausted their state law remedies. The Johnsons can prove none of these things.

First, the County did not take the Johnsons’ property. The County informed the Johnsons that it planned to take their property through eminent domain proceedings, but those proceedings turned out to be unnecessary because the Johnsons (who were represented by counsel) agreed to sell their property to the County. At that point, the matter “passed out of the range of the Fifth Amendment.” *Albrecht v. United States*, 329 U.S. 599, 603 (1947). Because the County did not take the Johnsons’ property but instead purchased that property, the County’s obligation to the Johnsons are measured not by the Takings Clause, but by the terms of their contract. See *DeNaples v. C.I.R.*, 674 F.3d 172, 179 (3d Cir. 2012) (“The DeNaples and Pennsylvania created an agreement completely separate from the judicial process and the constitutional requirement of just compensation, as such the parties’ rights and obligations are defined solely by the agreement’s terms.”). The Johnsons might have a viable breach of contract claim

-3- against the County under Minnesota law, but they do not have a viable takings claim against the County under federal law. Second, even if the County had taken the Johnsons’ property, the Johnsons would

not have a plausible claim that they did not receive just compensation. The County’s appraiser estimated the value of the Johnsons’ property as \$196,000. The Johnsons’



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appraiser estimated the value of the property as \$210,000. The County paid the Johnsons \$225,000. Under the circumstances, it is difficult to know how the compensation received by the Johnsons could possibly be found “unjust.”

Finally, even if the County had taken the Johnsons’ property, and even if the Johnsons could show that the compensation they received was unjust, the Johnsons would have to show that they “exhausted any available state procedure for seeking just compensation and been denied it.” *Snaza v. City of Saint Paul*, 548 F.3d 1178, 1181 (8th Cir. 2008). The Johnsons cannot make this showing, as they did not commence any state proceedings against the County. For these reasons, the Court agrees with Judge Bowbeer that the Johnsons’

federal claim must be dismissed with prejudice. And, for the reasons described by Judge Bowbeer, the Court declines to exercise supplemental jurisdiction over the Johnsons’ state law claims. If they wish, the Johnsons may pursue their state law claims in state court.

-4- ORDER Based on the foregoing, and on all of the files, records, and proceedings herein, the Court **OVERRULES** plaintiffs’ objection [ECF No. 63] and **ADOPTS** the R&R [ECF No. 62]. Accordingly, **IT IS HEREBY ORDERED THAT:**

1. Defendants’ motions to dismiss [ECF Nos. 11, 16] are **GRANTED**. 2. Plaintiffs’ claim that defendants violated the Fifth Amendment of the

United States Constitution is **DISMISSED WITH PREJUDICE AND ON THE MERITS**. 3. All other claims of plaintiffs are **DISMISSED WITHOUT PREJUDICE**. 4. Plaintiffs’ motions for judgment on the pleadings [ECF Nos. 32, 43] are

DENIED. 5. Plaintiffs’ requests to amend their complaint [ECF Nos. 10, 55] are

DENIED. LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: February 22, 2018 s/ Patrick J. Schiltz Patrick J. Schiltz

United States District Judge