

SUPREME COURT

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Cases decided May 23, 2024.

William B. Walton et al. v. Neskowin Regional Sanitary Authority (CC 17CV10996)
(CA A168358) (SC S069004)

On review from the Court of Appeals is an appeal from Tillamook County Circuit Court, Jonathan R. Hill, Judge. 314 Or App 124, 498 P3d 325 (2021). The decision of the Court of Appeals and the judgment of the circuit court are affirmed. Opinion of the Court by Justice Rebecca A. Duncan. Justice Thomas A. Balmer retired December 31, 2022, and did not participate in the decision of this case. Justice Martha L. Walters retired December 31, 2022, participated at oral argument, but did not participate in the decision of this case. Justice Adrienne C. Nelson resigned February 25, 2023, and did not participate in the decision of this case.

An inverse condemnation claim is a claim that a property owner can bring for "just compensation" under the state and federal constitutions when a governmental entity or its delegate has taken the owner's property for public use without instituting direct condemnation proceedings. Today, the Oregon Supreme Court held that inverse condemnation claims, including those based on a "physical occupation" taking, are subject to the six-year limitations period established by ORS 12.080(3); that the limitations period on a "physical occupation" takings claim can begin to run when the physical occupation occurs; and that, because the plaintiffs did not initiate their inverse condemnation claim within the limitations period, their claim was time barred.

In 2017, plaintiffs filed a complaint asserting an inverse condemnation claim against defendant, a local sewer authority. Plaintiffs alleged that defendant had installed sewer lines on their property without permission no later than 1995 and that the installation constituted a "taking" for which they were entitled to "just compensation" under Article I, section 18, of the Oregon Constitution, and the Fifth Amendment to the United States Constitution. Defendant moved for summary judgment on the ground that plaintiffs' claim was time barred by the six-year limitations period set out in ORS 12.080(3), which applies to claims "for interference with or injury to any interest of another in real property." Defendant argued that the limitations period began to run for

plaintiffs' claim when defendant had installed the sewer lines and, therefore, that the limitations period had expired in 2001, 16 years before plaintiffs filed their complaint in 2017. The trial court granted defendant's motion and entered a judgment dismissing plaintiffs' claim. Plaintiffs appealed, and the Court of Appeals affirmed.

In a unanimous opinion written by Justice Rebecca A. Duncan, the Supreme Court affirmed the Court of Appeals' decision and the trial court's judgment. The Court held that plaintiffs' inverse condemnation claim was subject to the six-year limitations period established by ORS 12.080(3); that that period began to run for plaintiffs' claim when defendant installed the sewer lines in 1995 and expired in 2001; and, therefore, that plaintiffs' 2017 complaint was untimely. The Court explained that inverse condemnation claims, including those based on "physical occupation" takings like plaintiffs' claim in this case, can be subject to statutory requirements even though such claims are based on constitutional provisions, and that plaintiffs' claim was subject to ORS 12.080(3). The Court further explained that, under both the state and federal constitutions, a property owner may bring an inverse condemnation claim for a "physical occupation" taking when the physical occupation occurs and, therefore, that ORS 12.080(3)'s six-year limitations period can begin to run at that time. Applying that rule to the facts of this case, the Court concluded that the limitations period began to run for plaintiffs' claim when defendant had installed the sewer lines and that, because plaintiffs did not assert their claim within the limitations period, it was time barred.