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Knick v. Township of Scott

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Knick v. Township of Scott, 139 S. Ct. 2162 (2019)

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The Supreme Court overruled a 34-year-old precedent and sparked a sharp dissent by holding that a landowner impacted by a local ordinance requiring public access to an unofficial cemetery on her property could bring a takings claim directly in federal court. The decision eliminated a Catch-22 state-litigation requirement that effectively barred local takings plaintiffs from federal court, but raised concerns about government land use and regulation, judicial federalism, and the role of *stare decisis*.

I. INTRODUCTION

In *Knick v. Township of Scott*, the Court held that a government violates the Takings Clause of the Fifth Amendment[1] when it takes property without just compensation, and a property owner may bring a civil action for the deprivation of their constitutional rights under 42 U.S.C § 1983 at that time.[2] The holding overturned *Williamson County Regional Planning Comm'n v. Hamilton Bank of Johnson City*, which required a property owner to seek just compensation under state law in state court before bringing a federal takings claim under § 1983.[3] The Court stated that *Williamson County*'s reasoning was poor and conflicted with prior takings jurisprudence.[4] Additionally, the Court found the state-litigation requirement unworkable in light of *San Remo Hotel, L. P. v. City and County of San Francisco*, which provided preclusive effect to state court resolutions of takings claims.[5]

II. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner Rose Mary Knick owned 90 acres of land in Scott Township, Pennsylvania (the "Township"), which she used primarily for grazing horses and other farm animals.[6] Knick's property included a small family cemetery where the ancestors of Knick's neighbors were reportedly buried.[7] In December 2012, the Township passed an ordinance requiring

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1. U.S. CONST. amend. V.
2. 139 S. Ct. 2162, 2168 (2019). *See* 42 U.S.C § 1983 (2012) ("Every person who . . . subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress . . . ").
3. *Id.* at 2167. *See* Williamson County Regional Planning Comm'n v. Hamilton Bank of Johnson City, 473 U.S. 172 (1985).
4. *Id.*
5. *Id.* at 2169 (citing San Remo Hotel, L. P. v. City and County of San Francisco, 545 U.S. 323 (2005)).
6. *Id.* at 2168.
7. *Id.*

that "[a]ll cemeteries . . . be kept open and accessible to the general public during daylight hours," even if located on private property.[8]

In 2013, the Township notified Knick that she was violating the ordinance.[9] Knick sought declaratory and injunctive relief in state court, arguing the ordinance constituted a taking of her property.[10] The Township withdrew its violation notice and stayed enforcement of the ordinance during the state court proceedings.[11] Consequently, the state court declined to rule on Knick's request for relief because she could not demonstrate the required irreparable harm.[12]

Knick then filed suit in United States District Court, which dismissed her takings claim because she had not pursued an inverse condemnation action in state court as required by *Williamson County*.[13] The Third Circuit affirmed the district court's ruling, though it noted the Township's ordinance was "extraordinary and constitutionally suspect."[14] The Supreme Court granted certiorari to "reconsider the holding of *Williamson County*."[15]

III. ANALYSIS

In assessing the validity of *Williamson County*, the Court first analyzed its interpretation of the Takings Clause before discussing the state litigation requirement.[16] Finally, the Court addressed the doctrine of *stare decisis* and whether an overruling was warranted.[17]

A. Fifth Amendment Takings

The Court compared the Takings Clause to other constitutional protections and determined that *Williamson County* had gone astray as it created a different, more burdensome route for a takings plaintiff to reach federal court.[18] In *Williamson County*, the Court held that a developer's federal takings claim was "premature" because he had not first sought compensation through state inverse condemnation procedures.[19] The Court identified two distinct elements of a Takings Clause violation. First, the government must take the property, and second, it must deny the

8. *Id.*
9. *Id.*
10. *Id.*
11. *Id.*
12. *Id.*
13. *Id.* at 2169 (citing Knick v. Scott Twp., NO. 3:14-CV-02223, 2016 U.S. Dist. Lexis 121220, 2016 WL 4701549, at *5–6 (M.D. Pa., Sept. 8, 2016)).
14. *Id.* (citing Knick v. Twp. of Scott, 862 F. 3d 310, 314 (2017)).
15. *Id.*
16. *Id.* at 2170.
17. *Id.* at 2177.
18. *Id.*
19. *Id.* at 2174 (citing Williamson County Regional Planning Comm'n v. Hamilton Bank of Johnson City, 473 U.S. 172, 197 (1985)).

property owner just compensation.[20] As a rule, the *Williamson County* Court reasoned that "if a state provides an adequate procedure for seeking just compensation, the property owner cannot claim a violation of the [Takings] Clause until it has used the procedure and been denied just compensation."[21] However, if there was no such procedure, the Fifth Amendment right to compensation would attach immediately.[22]

Notably, *Williamson County* relied on *Ruckelshaus v. Monsanto Co.*, which did not involve a takings claim for just compensation.[23] Instead, the plaintiff in *Monsanto* sought injunctive relief under a federal statute because it effected a taking, even though the statute included a special arbitration procedure for obtaining compensation.[24] The *Monsanto* Court concluded that if the plaintiff obtained compensation in arbitration, there was no taking and thus no claim against the Government.[25]

The *Knick* Court rejected this reasoning, noting that the fully-compensated plaintiff's claim would be moot because "the taking ha[d] been remedied by compensation, not because there was no taking in the first place."[26] The Court illustrated *Williamson County*'s flawed reasoning with an analogy: "A bank robber might give the loot back, but he still robbed the bank."[27] Accordingly, providing procedures to remedy a taking does not negate the fact a taking initially occurred.[28]

The Court then noted prior takings jurisprudence, which established that a Fifth Amendment violation occurs at the time of the taking.[29] In *Jacobs v. United States*,[30] the Court held that a property owner's claim for compensation "rested upon the Fifth Amendment," and "the availability of any particular compensation remedy cannot infringe or restrict the property owner's federal constitutional claim—just as the existence of a state action for battery does not bar a Fourth Amendment claim of excessive force."[31] Subsequently, *First English Evangelical Lutheran Church of Glendale v. County of Los Angeles*[32] reaffirmed that compensation under the Takings Clause is a remedy for the constitutional violation that "the landowner has *already* suffered" at the time of the uncompensated taking.[33]

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20. *Id*. at 2181.
21. *Id.* at 2171.
22. *Id*.
23. *Id.* at 2173.
24. *Id.* (citing Ruckelshaus v. Monsanto Co., 467 U.S. 986, 1018 (1984)).
25. *Id.* at 2173 (citing *Monsanto*, 467 U.S. at 1018 n.21).
26. *Id.*
27. *Id.* at 2172.
28. *Id*.
29. *Id.* at 2177–78.
30. 290 U.S. 13 (1933).
31. *Knick*, 139 S. Ct. at 2171 (citing *Jacobs*, 290 U.S. at 17).
32. 482 U.S. 304 (1987).
33. *Knick*, 139 S. Ct. at 2172; *First English*, 482 U. S. at 315 (citing San Diego Gas & Elec. Co. v. City of San Diego, 450 U. S. 621, 654 (1981) (Brennan, J., dissenting)).

In addition to established precedent, the Court referenced the plain text of the Takings Clause, which states that private property shall not be "taken for public use, without just compensation,"[34] as opposed to "taken for public use, without an available procedure that will result in compensation."[35] Therefore, if a government takes private property without just compensation, that government has violated the self-executing Fifth Amendment, regardless of subsequent state court proceedings.[36] Because the property owner's constitutional right vested at the time of the taking, the Court concluded that the property owner could proceed directly to federal court under § 1983 at that time.[37] The Court stated that such a scheme demonstrated "fidelity to the Takings Clause" and "restor[ed] takings claims to the full-fledged constitutional status the Framers envisioned when they included the Clause among the other protections in the Bill of Rights."[38]

B. State-litigation Requirement

In addition to its interpretation of the Takings Clause, the Court found *Williamson County*'s state-litigation requirement "exceptionally ill founded,"[39] and "a rule in search of a justification."[40] The Court determined the rule's "shaky foundations" were to blame for its unanticipated result, which it deemed "unworkable in practice."[41]

The "unanticipated consequences" of *Williamson County* were not made clear until 20 years later in *San Remo*.[42] There, a takings plaintiff who was unsuccessful in state court attempted to bring a federal Fifth Amendment claim for compensation.[43] The *San Remo* Court held, however, that the full faith and credit statute, 28 U.S.C. § 1738, required the federal court to give preclusive effect to the state court's decision, thus preventing the plaintiff's claim.[44]

The combined result of *San Remo* and *Williamson County* effectively barred local takings plaintiffs from federal court.[45] The state-litigation requirement created a trap for takings plaintiffs, and "hand[ed] authority over federal takings claims to state courts."[46] Thus, under *Williamson County*, the adverse state court decision both "gave rise to a

34. *Id*. (citing U.S. CONST. amend. V).
35. *Id.*
36. *Id*.
37. *Id.* at 2171.
38. *Id.* at 2170.
39. *Id*. at 2178.
40. *Id*.
41. *Id.*
42. *Id.* at 2169. *See* San Remo Hotel, L. P. v. City and County of San Francisco, 545 U.S. 323 (2005).
43. *San Remo*, 545 U.S. at 326.
44. *Id*. at 347.
45. *Knick*, 139 S. Ct. at 2174.
46. *Id.* at 2170 (citing *San Remo*, 545 U.S. at 350 (Rehnquist, C. J., concurring)).

ripe federal takings claim" and "simultaneously barred that claim, preventing the federal court from ever considering it."[47]

C. Stare Decisis

Finally, the Court discussed whether it should overrule *Williamson County*, or adhere to the settled law, despite its error, under the doctrine of *stare decisis*.[48]

The Court noted that *stare decisis* "reflects a judgment that in most matters it is more important that the applicable rule of law be settled than it be settled right."[49] When overruling a past decision, the Court identified several factors for consideration: (1) the quality of its reasoning; (2) the workability of the rule it established; (3) its consistency with other related decisions; and (4) reliance on the decision.[50]

Williamson County fell short in all respects. The Court found its reasoning "exceptionally ill founded" and the subject of repeated criticism over the years.[51] In particular, it concluded that the state-litigation requirement undermined the force of *stare decisis* because its justification continued to evolve.[52] Starting as an element of a takings claim, the requirement morphed into a "prudential" ripeness rule and subsequently into a new § 1983-specific theory argued by the respondents in *Knick*.[53] Moreover, the requirement proved unworkable after *San Remo* and ignored *Jacobs* and other subsequent decisions, which held that a property owner's right to compensation vested at the time of a taking.[54] Lastly, the Court determined there were no reliance interests of concern and rejected the argument that overruling *Williamson County*'s state-litigation requirement will expose governments or agencies to new liability.[55] Instead, the holding would "simply allow into federal court takings claims that otherwise would have been brought as inverse condemnation suits in state court."[56]

IV. DISSENT

A sharp dissent rejected the Court's textual interpretation, use of precedent, and analogies. Justice Kagan, joined by three other justices, argued the Takings Clause was "unique among the Bill of Rights'

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47. *Id.* at 2169.

48. *Id*. at 2177. *See Stare Decisis*, BLACK'S LAW DICTIONARY (11th ed. 2019) ("[A] doctrine of precedent, under which a court must follow earlier judicial decisions when the same points arise again in litigation").

49. *Knick*, 139 S. Ct. at 2177.

50. *Id.* at 2178 (citing Janus v. Am. Fed'n of State, Cty., and Mun. Emps., Council 31, 138 S. Ct. 2448, 2478 (2018)).

51. *Id.*

52. *Id*. at 2178.

53. *Id.*

54. *Id*.

55. *Id*.

56. *Id*. at 2179.

guarantees."[57] Unlike the Fourth Amendment, which guarantees protection against excessive force, the Takings Clause does not prohibit takings—only takings without just compensation.[58] This distinction, the dissent wrote, is "an integral attribute of sovereignty."[59]

The dissent warned that the majority's decision "betray[ed] judicial federalism," as it will make "complex state-law issues part of the daily diet of federal district courts."[60] Wide variations among state laws can complicate the ultimate question of whether a land-use regulation violates the Takings Clause.[61] Courts must first decide whether the plaintiff had a valid property interest under state law.[62] According to the dissent, that question can be "nuanced and complicated," and is unfamiliar to federal courts.[63]

Finally, the dissent stated that under the guise of overruling a single case, the Court "smashe[d] a hundred-plus years of legal rulings to smithereens."[64] The dissent stressed the value of *stare decisis* and the long-established preference for relying on Congress to correct conflicting decisions.[65] For example, Congress could fix the *San Remo* preclusion trap with legislation allowing property owners to litigate in federal court should their case fail after a state court proceeding.[66] Overturning precedent, the dissent wrote, "demands a special justification—over and above the belief that the precedent was wrongly decided," and "the majority offers no reason that qualifies."[67]

V. CONCLUSION

The Court's decision in *Knick* highlighted the complicated intersection of a property owner's constitutional rights and the right of a sovereign local government to impose land use regulations. In finding that a federal takings claim is ripe at the time of the taking, and overturning *Williamson County*'s state-litigation requirement, *Knick* will make it easier for local takings plaintiffs to reach the federal courts. However, as the dissent noted, questions remain regarding how that procedural change will affect local, state, and federal land use regulations going forward, and to what extent the Court must justify its departure from *stare decisis*.

57. *Id.* at 2181.
58. *Id.*
59. *Id*.
60. *Id.* at 2189.
61. *Id*. at 2188.
62. *Id.*
63. *Id*. at 2187.
64. *Id*. at 2183.
65. *Id.* at 2189.
66. *Id*.
67. *Id*.