



LANDMARK SUPREME COURT CASES AND THE CONSTITUTION

LUCAS v. SOUTH CAROLINA COASTAL COMMISSION (1992)

MONDAY, NOVEMBER 26, 2007

OVERVIEW

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The Founders considered private property rights to be an important basis for all other individual rights, but believed that the federal government was empowered to take private property “for public use,” as long as just compensation was paid to the owner. This month we spotlight the 1992 case of *Lucas v. South Carolina Coastal Commission*, when the Supreme Court was asked to decide if the government had to compensate a property owner when a new law banned new construction on the land where he’d planned to build.

RESOURCES

- <http://citizenbee.org/user/StudentGuide.aspx?id=798>
- http://www.oyez.org/cases/1990-1999/1991/1991_91_453/
- <http://www.law.cornell.edu/supct/html/91-453.ZS.html>

ACTIVITY

Lucas stood on the Isle of Palms, the South Carolina beachfront land he had just purchased. He gazed at the construction going on around him, and smiled thinking about his plans to build two houses on the property. It was 1986. Two years later, though, the state legislature passed a law that meant Lucas would not be able to build on his land.

The South Carolina legislature wanted to prevent further erosion on the beach, and enacted the Beachfront Management Act. This law banned new construction on the land Lucas had purchased. The Fifth Amendment, applied to the states through the Fourteenth Amendment, says, “nor shall private property be taken for public use without just compensation.” Lucas still owned his land. The government had also not physically invaded it. Had the government “taken” it by preventing him from building on it?

Lucas filed suit and his case eventually went to the Supreme Court. South Carolina argued that the land Lucas had purchased was an “extremely valuable” public resource, and that the ban on construction was designed to preserve the land. The ban on construction was also designed to prevent public harm due to frequent flooding, and Lucas was owed nothing. Lucas argued that the state should pay him just compensation for depriving him of all economic use of his land.

The Supreme Court ruled (6-2) that the government had indeed taken Lucas’s land and he was owed compensation. The Court held, “When the owner of real property has been called upon to sacrifice all economically beneficial uses in the name of the common good, that is, to leave his property economically idle, he has suffered a taking.”

The Court acknowledged that individuals must expect a certain amount of regulations on land, and those do not require owners to be compensated. However, the opinion continued, “When... a regulation that declares “off limits” all economically productive or beneficial uses of land...compensation must be paid to sustain it.”

QUESTIONS

1. What happened to bring *Lucas v. South Carolina Coastal Commission* to the Supreme Court?
2. How did the Supreme Court rule?
3. What was the Court’s reasoning for its ruling?



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4. The government is charged with making laws to protect the environment. How might the ruling in *Lucas* impact government's ability to set aside certain lands in the name of conservation?
5. In his dissent, Justice Blackmun noted that the property Lucas had purchased was unstable, flooding in half of the last forty years. Lucas did not dispute the findings that the land was unstable and that new construction could be dangerous and threaten nearby structures. Blackmun argued that the case rested on "the principle that the State has full power to prohibit an owner's use of property if it is harmful to the public. Since no individual has a right to use his property so as to create a nuisance or otherwise harm others, the State has not 'taken' anything..." Do you agree? Why or why not?

Extensions

After students are familiar with the facts of the case, ask them to choose a side and prepare arguments such as those attorneys would have offered before the Court. Have them list their arguments on one side of a Venn diagram. Then have the class listen to the oral arguments, and complete the Venn diagram with arguments presented by their side in the case. Which arguments were the same? Did students think of any arguments that were not presented?

Oral Arguments can be accessed at:

http://www.oyez.org/cases/1990-1999/1991/1991_91_453/argument/



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ANSWERS

1. Lucas bought beachfront land in South Carolina. The South Carolina legislature subsequently passed a law banning new construction on land including Lucas's property. Lucas believed the government owed him just compensation because the law had stripped his land of all economic value. Though he still owned his land, the government had "taken" it, in effect.
2. The Court held that the government had taken Lucas's land and he was owed compensation.
3. The Court reasoned that forcing a landowner to leave his land "economically idle" is the same as a "taking." Further, while some regulations are to be expected and do not require owners to be compensated, a regulation that takes away all economic value entitles the owner to just compensation.
4. This ruling may make it more expensive and therefore more perhaps more difficult for governments to restrict the uses of privately held land for purposes of conservation and protecting the environment.
5. Answers will vary. Some students will disagree, asserting as the majority did in this case that these kinds of land regulations are an attempt by government to effectively take land for public use without having to exercise eminent domain and pay owners just compensation. Others will agree with Blackmun, arguing that if the land was unsuitable for construction anyway – because building on it would be hazardous – that Lucas did not lose anything from the ban on construction.