



Supreme Court Ruling Sends a Wake-Up Call to Property Owners

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The Murr family thought they had it all figured out. One lot the Murr clan owns on the Saint Croix River in Wisconsin has the dream vacation home they all love to visit.

The lot they own next door as an investment they believed would someday pay for re-doing or re-building that house. A few years ago they were ready to sell that second lot.

But then local bureaucrats told the clan they considered the two lots were one and the Murrs had to sell either everything or nothing, both lots or neither.

Clan members couldn't believe it. Those bureaucrats had always treated the lots as two properties. They'd always sent the Murrs two separate tax bills. So the Murrs took the matter to court.

A state appeals court rejected their claim, ruling that "contiguous property under common ownership is considered as a whole."

Now the U.S. Supreme Court has sided with the bureaucrats and against the Murrs.

Writing for the majority Friday, Justice Anthony Kennedy affirmed the lower court ruling: "Considering petitioners' property as a whole, the state court was correct to conclude that petitioners cannot establish a compensable taking. [The Murrs] have not suffered a taking ... as they have not been deprived of all economically beneficial use of their property."

"My brothers and sister and I are certainly disappointed in today's ruling," said Donna Murr, a frequent spokeswoman for the extended family.

Lawyer Todd Gaziano of the Pacific Legal Foundation, which represented the Murrs, said they have every right to be disheartened.

"Our clients love their property. It has particular sentimental and important family value, staying in the same cabin that their parents and grandparents purchased," Gaziano told CBN News outside the Supreme Court. "What they wanted to do was sell the investment lot to be able to improve the cabin. I don't know what they're going to do now. Our hearts are with them. They were great clients. We love them for sticking up not just for their own rights, but for the rights of all Americans."

“This is an unfortunate decision for the Murrs, and all property owners,” said John Groen, Pacific Legal Foundation’s General Counsel. “We will continue the fight for property owners and for the integrity of the constitutional right against uncompensated government takings.”

The court's conservative bloc – Justices John Roberts, Samuel Alito, and Clarence Thomas – agreed with the family.

"As I see it, the Wisconsin Court of Appeals was wrong to apply a takings-specific definition of the property at issue," wrote Chief Justice Roberts in his dissent. "Instead, the court should have asked whether, under general state law principles, Lots E and F are legally distinct parcels of land. I would therefore vacate the judgment below and remand for the court to identify the relevant property using ordinary principles of Wisconsin property law."

Justice Neil Gorsuch, nominated by President Donald Trump and sworn in last April, did not participate in the decision.

“One of the problems in today’s opinion is that, as Chief Justice Roberts pointed out in his great dissent, it complicates takings law. Takings law was already complicated enough. Justice Kennedy added three or four complications. That opinion that complicates the law is inherently unbalanced and will call out for reform,” Gaziano stated. ““Until we can get the Supreme Court to reverse this opinion, we need to go to state legislatures, state courts and get state law changes to protect property rights.”

He added, “If you can secure your property rights at the local level, that’s always better. No one wants to go to court.”

There’s a warning here for property owners. They may think since they own it, they control it. But their local governments may well feel the bureaucrats have more right to say what happens to these properties than the owners do.

Gaziano explained, “What was at stake in today’s case is whether the state or county or any government for that matter can place heavier burdens on property owners who own two adjoining properties without having to pay compensation. Unfortunately, the Supreme Court in a divided opinion came up with a very unfortunate opinion that’ll have even broader negative effects for other property owners.”

The libertarian Cato Institute’s Ilya Shapiro said of the case, “A family was deprived of significant use of its property, not to mention economic benefits, because of an unfortunate operation of local law. The Supreme Court compounded that harm by essentially deferring to state determinations of property owners’ rights.”

Donna Murr also stated, “It is our hope that property owners across the country will learn from our experience and not take their property rights for granted.”

Gaziano said of the Murrs, “These are great people, and I am confident that they will help us and help other Americans in the reform we need. We need reform both in state legislatures to try to prevent states from trying to take people’s property without just compensation. And just because state and local governments CAN do this doesn’t mean that they should do this.”

One result of this case: the Murrs who used to believe government was there to serve the people now believe in their case, government just served itself and ripped them off.