

Environmental Law
Nollan vs. CCC

Abstract of:
483 U.S. 825, 97 L. Ed.2d 677

James Patrick Nollan, et
ux., Appellant
v.
California Coastal
Commission.

Case Definition:

The case is Nollan versus the California Coastal Commission. The Nollans were the appellates against a decision made by the California Coastal Commission (CCC).

The Nollans had been leasing a property on the California coast with which they had an option to buy. The property lies directly at the foot of the Pacific Ocean and is a prime piece of real estate on the California Coast. The property had been used by the Nollans to rent out during the summer months to vacationers. At the end of the Nollans' lease they took the option to purchase the land and began preparing for the terms of purchase by the previous land owner. Among those terms was the demolishing of the small deteriorating bungalow that the Nollans had been leasing. The Nollans had planned to expand the structure from the small bungalow that it was to a three bedroom house more complimentary to the surrounding homes and their needs. In order to begin destruction of the property and begin rebuilding the site the Nollans had to secure a permit from the California Coastal Commission. Upon submitting the permit application, the CCC found that the permit should be granted on the condition that the Nollans provide public access to the beach and to the local county park, which lay adjacent to the property. This provision called for the Nollans to use a portion of their land to be used as a public walkway to the beach and park. The Nollans protested to the condition, but the CCC overruled the objection and granted the permit with the condition intact.

Case Decision:

The Nollans filed a petition to the Ventura County Superior Court asking that the condition to supply easement be removed from their permit. The Nollans' argument was that there was not enough evidence to support the developments limiting of public access to the beach. The argument was agreed upon by the court and the case was remanded to the California Coastal Commission for a full evidentiary hearing on the issue of public access to the beach.

The CCC held a public hearing which led to further factual findings which reaffirmed the need for the condition. The CCC's argument was that the building of the new structure would limit view of the ocean, and therefore limit access to the public who had full rights to use the beach. To compensate for the limitations on the public the Nollans would have to provide access to the beach from their property. The CCC also noted that all of the other developments on the same tract of land had been conditioned similarly in having to provide public access to the ocean.

The Nollans filed a supplemental petition for a writ of administrative mandamus (a writ that would order a public official or body to comply

with a specified duty issued by a superior court). The Nollans argument was that the permit condition violated the Takings Clause in the V Amendment, and also in the XIV Amendment of the Constitution.

The court agreed that the administrative record did not provide for in showing the existence of adverse impact on the public's access to the ocean. The court granted the writ of mandamus, and directed that the public access condition be removed from the permit.

The CCC appealed the case in the California Court of Appeal and won the decision. The Court of Appeal found an error in the Supreme Courts interpretation of the Coastal Act which mandates public access to any category of developments on the coast. The Court of Appeal also found that the Takings claim was unsubstantiated by the Nollans. The permit condition did take from the value of the land, but did not restrict them of reasonable use of their property.

The Nollans then appealed to the United States Supreme Court. The argument made by the Nollans continued to revolve around the Takings Clause in the V Amendment. The Supreme Court found that the requirement of the permit only put a restriction on the use of the property and not a "taking" of the property. The Supreme Court also held the California State Constitution to have standing, and upheld the ruling made by the Court of Appeals.

Reasoning for Decision:

I believe that the reason the Supreme Court decided as it did was that its interpretation of the California State Constitution provided for the authority of the CCC's permit regulation. The part within the states constitution says that access to any navigable waters shall not be limited by any person when it is required for any public purpose. The "navigable water" clause infers the actual use of the water and not the beach itself. The Supreme Court did not want to make a case of this for intervening in states' constitutions is nasty business; and there was not a big deal concerning the language of the law from either of the parties. I think that a similar case could be argued attacking the Constitution of the State of California concerning the navigable waters clause. I would still have to agree with the CCC's permit condition of allowing public access to the beach, because I like the beach and am in no position to purchase land bordering it so I need access.

