De La Cruz v. City of Los Angeles

United States District Court for the Central District of California

February 5, 2026, Decided; February 5, 2026, Filed

CV 25-7024 PA (SKx)

Reporter
2026 U.S. Dist. LEXIS 26413 *; 2026 LX 63880

Maria De La Cruz, et al. v. City of Los Angeles, et al.

Counsel: [*1] For Maria De La Cruz, Pedro De La Cruz, Plaintiffs: Jonathan G Gabriel, LEAD ATTORNEY, David S Mayes, Gabriel Law Group PC, Encino, CA.

For The City of Los Angeles, Defendant: Vi Thomas, LEAD ATTORNEY, Los Angeles City Attorney's Office, City Hall East, Los Angeles, CA; Charles David Sewell, Los Angeles City Attorneys Office, City Hall East Room, Los Angeles, CA.

For BBC Scott LLC, Building Bloch Capital, LLC, Defendants: K Erik Friess, LEAD ATTORNEY, Catriona M Lavery, Lucas Alexander Urgoiti, Allen Matkins Leck Gamble Mallory and Natsis LLP, Irvine, CA.

Judges: PERCY ANDERSON, UNITED STATES DISTRICT JUDGE.

Opinion by: PERCY ANDERSON

Opinion

CIVIL MINUTES - GENERAL

Proceedings: IN CHAMBERS — COURT ORDER

Before the Court are Motions to Dismiss filed by defendant the City of Los Angeles (the "City") (Docket No. 31) and defendants Building Bloch Capital, LLC and BBC Scott, LLC (collectively the "BBC Parties") (Docket No. 33). The City and the BBC Parties (collectively "Defendants") challenge the sufficiency of the Complaint filed by plaintiffs Maria and Pedro De La Cruz (collectively "Plaintiffs"). Pursuant to Rule 78 of the Federal Rules of Civil Procedure and Local Rule 7-15, the Court finds this matter appropriate for decision without oral argument. The Court previously vacated [*2] the hearing and took the matter off calendar.

I. Factual and Procedural Background

Plaintiffs purchased a home on Scott Avenue in Los Angeles in 1973 that is directly adjacent to a project located at 2227 West Scott Avenue being developed by the BBC Parties. The development project is a six story building with 39 apartment units. According to Plaintiffs, the development project was approved by the City without an environmental impact study "because the State of California generally and the City of Los Angeles specifically have prioritized and streamlined the approval of certain high-density housing projects that are built near public transportation hubs such as the 2227 Scott Avenue Development project at issue in this lawsuit." (Compl. ¶ 10.) Plaintiffs allege that the City approved the project "under a ministerial review process" as part of the Mayor's Declaration of Local Emergency and an exemption under the California Environmental Quality Act ("CEQA") that "does not require environmental impact studies for traffic, air, noise, or water quality." (Id. ¶¶ 12-13.)

The Complaint alleges that the development project "will block all direct sunlight during the afternoon hours . . . ." ([*3] Id. ¶ 8.) Plaintiffs allege that their property "will be completely unfit as a family home" and they will "have no practical alternative than to sell their building to a developer for a fraction of its current value, further destroying the character of the neighborhood." (Id. ¶ 9.) According to Plaintiffs, the project "interferes with Plaintiffs' property rights, including natural light and other environmental impacts, effectively depriving them of the use and enjoyment of their property." (Id. ¶ 15.) Plaintiffs claim that they were not provided actual or constructive notice of the City's approval of the project or provided an opportunity to challenge the decision.

The Complaint alleges claims for: (1) a violation of the Fifth Amendment's Takings Clause pursuant to *42 U.S.C. § 1983*; (2) a violation of procedural due process under the United States Constitution; and (3) violation of the California Constitution's Takings Clause.

II. Legal Standard

Generally, plaintiffs in federal court are required to give only "a short and plain statement of the claim showing that the pleader is entitled to relief." *Fed. R. Civ. P. 8(a)*. While the Federal Rules allow a court to dismiss a cause of action for "failure to state a claim upon which relief can be granted," they also require all pleadings to be "construed [*4] so as to do justice." *Fed. R. Civ. P. 12(b)(6)*, 8(e). The purpose of Rule 8(a)(2) is to "'give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.'" *Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 127 S. Ct. 1955, 1964, 167 L. Ed. 2d 929 (2007)* (quoting *Conley v. Gibson, 355 U.S. 41, 47, 78 S. Ct. 99, 103, 2 L. Ed. 2d 80 (1957)*).

However, in *Twombly*, the Supreme Court rejected the notion that "a wholly conclusory statement of a claim would survive a motion to dismiss whenever the pleadings left open the possibility that a plaintiff might later establish some set of undisclosed facts to support recovery." *Twombly, 550 U.S. at 561, 127 S. Ct. at 1968* (internal quotation omitted). Instead, the Court adopted a "plausibility standard," in which the complaint must "raise a reasonable expectation that discovery will reveal evidence of [the alleged infraction]." *Id. at 556, 127 S. Ct. at 1965*. For a complaint to meet this standard, the "[f]actual allegations must be enough to raise a right to relief above the speculative level." *Id. at 555, 127 S. Ct. at 1965* (citing 5 C. Wright & A. Miller, Federal Practice and Procedure §1216, pp. 235-36 (3d ed. 2004) ("[T]he pleading must contain something more . . . than . . . a statement of facts that merely creates a suspicion [of] a legally cognizable right of action") (alteration in original)); *Daniel v. County of Santa Barbara, 288 F.3d 375, 380 (9th Cir. 2002)* ("'All allegations of material fact are taken as true and construed in the light most favorable to the nonmoving party.'") (quoting *Burgert v. Lokelani Bernice Pauahi Bishop Trust, 200 F.3d 661, 663 (9th Cir. 2000)* [*5]). "[A] plaintiff's obligation to provide the grounds of his entitlement to relief requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Twombly, 550 U.S. at 555, 127 S. Ct. at 1964-65* (internal quotations omitted). In construing the *Twombly* standard, the Supreme Court has advised that "a court considering a motion to dismiss can choose to begin by identifying pleadings that, because they are no more than conclusions, are not entitled to the assumption of truth. While legal conclusions can provide the framework of a complaint, they must be supported by factual allegations. When there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief." *Ashcroft v. Iqbal, 556 U.S. 662, 679, 129 S. Ct. 1937, 1950, 173 L. Ed. 2d 868 (2009)*.

III. Analysis

Defendants seek dismissal of the Complaint for a number of reasons, including that the approval of the development project does not constitute a taking as a matter of law under either federal or state law, Plaintiffs' due process claim fails without the loss of a protected property interest, the ministerial approval of the development does not trigger due process protections, failure to comply with state law timing requirements, and the BBC Parties are not state actors against whom a claim brought pursuant to *42 U.S.C. § 1983* can proceed. Because the outcome of the procedural due process claim relies on the viability of the federal and state takings claims, the Court will address the takings claims first.

A. Federal Takings Claim

In their Complaint, Plaintiffs characterize the effect on their property of the approval of the neighboring development project as a "regulatory taking" of Plaintiffs' property. (Compl. ¶ 23.) In *Penn Central Transportation Co. v. City of New York, 438 U.S. 104, 98 S.Ct. 2646, 57 L.Ed.2d 631 (1978)*, the Supreme Court set forth three factors for determining whether [*6] government action constitutes a regulatory taking: (1) "[t]he economic impact of the regulation on the claimant," (2) "the extent to which the regulation has interfered with distinct investment-backed expectations," and (3) "the character of the governmental action." *Id. at 124*; see *Bridge Aina Le'a, LLC v. Land Use Comm'n, 950 F.3d 610, 630 (9th Cir. 2020)* ("The first and second *Penn Central* factors are the primary factors.").

In applying the first *Penn Central* factor, courts "compare the value that has been taken from the property with the value that remains in the property." *Colony Cove Props., LLC v. City of Carson, 888 F.3d 445, 450 (9th Cir. 2018)* (internal quotations omitted). The Ninth Circuit has explained that "[a]lthough there is no litmus test . . . our value comparison again aims to identify regulatory actions that are functionally equivalent to the classic taking in which government

directly appropriates private property or ousts the owners from his domain." *Bridge Aina Le'a, LLC, 950 F.3d at 630-31* (internal quotations and citation omitted). "Supreme Court cases 'have long established that mere diminution in the value of property, however serious, is insufficient to demonstrate a taking.'" *Rancho de Calistoga v. City of Calistoga, 800 F.3d 1083, 1090 (9th Cir. 2015)* (quoting *Concrete Pipe & Products of California, Inc. v. Constr. Laborers Pension Trust for S. California, 508 U.S. 602, 645, 113 S.Ct. 2264, 124 L.Ed.2d 539 (1993)*).

The Complaint's conclusory allegations that the development on the neighboring parcel will render Plaintiffs' property "completely unfit as a family home" and they will "have no practical alternative [*7] than to sell their building to a developer for a fraction of its current value" do not satisfy the first *Penn Central* factor. (Compl. ¶ 9.) Not only does the Complaint fail to allege sufficient facts to establish the basis for any alleged diminution in value, a 92.5% decrease in value has been found insufficient to establish a taking. See *Pakdel v. City & Cnty. of San Francisco, 636 F. Supp. 3d 1065, 1075 (N.D. Cal. 2022)* (finding that plaintiff had not sufficiently pled the first *Penn Central* factor where plaintiff alleged a diminution in the property's value of $500,000, and explaining that "the FAC does not include any facts to establish the basis for this averred diminution in value"); *Colony Cove, 888 F.3d at 451* ("[W]e have observed that diminution in property value because of governmental regulation ranging from 75% to 92.5% does not constitute a taking."). Accordingly, Plaintiffs have not plausibly alleged that the first *Penn Central* factor weighs in their favor.

As to the second *Penn Central* factor, "a purported distinct investment-backed expectation must be objectively reasonable" in order "to form the basis for a taking claim." *Colony Cove, 888 F.3d at 452*. "[W]hat is relevant and important in judging reasonable expectations is the regulatory environment at the time of the acquisition of the property." *Bridge Aina Le'a, LLC, 950 F.3d at 634* (internal quotations and citation omitted); see *Pakdel, 636 F. Supp. 3d at 1076* ("[T]his [*8] factor must consider the extent to which the challenged regulation departs from or extends beyond past or conceivable future regulatory developments."). The expectation that a "property will be continually unencumbered by government regulation" is unreasonable. *Rancho de Calistoga, 800 F.3d at 1090*; see also *id. at 1091* ("Simply put, when buying a piece of property, one cannot reasonably expect that property to be free of government regulation such as zoning, tax assessments, or, as here, rent control."). When one purchases a residential property, that property is subject to the zoning decisions of the local government. Plaintiffs have cited to no case in which a property owner has successfully maintained a takings claim involving the approval of a development on a neighboring parcel. The second *Penn Central* factor therefore does not support Plaintiffs' federal takings claim.

In evaluating the third *Penn Central* factor, the Ninth Circuit considers whether a government action "amounts to a physical invasion or instead merely affects property interests through some public program adjusting the benefits and burdens of economic life to promote the common good." *Guggenheim v. City of Goleta, 638 F.3d 1111, 1121 (9th Cir. 2010)* (internal quotations omitted). Here, as the Complaint alleges, "because the State of California [*9] generally and the City of Los Angeles specifically have prioritized and streamlined the approval of certain high-density housing projects that are built near public transportation hubs such as the 2227 Scott Avenue Development project at issue in this lawsuit." (Compl. ¶ 10.) The Complaint therefore admits that the approval of the development on the neighboring parcel advances the important public good of providing additional affordable housing within transportation corridors. Plaintiffs have therefore admitted in their Complaint that the third *Penn Central* factor weighs against them.

Accordingly, Plaintiffs Complaint establishes that they have no viable federal takings claim under any of the *Penn Central* factors.

B. California Takings Claim

"Property is 'taken or damaged' within the meaning of *article I, section 19 of the California Constitution*, so as to give rise to a claim for inverse condemnation, when: (1) the property has been physically invaded in a tangible manner; (2) no physical invasion has occurred, but the property has been physically damaged; or (3) an intangible intrusion onto the property has occurred which has caused no damage to the property but places a burden on the property that is direct, substantial, and peculiar to the property itself." [*10] *Oliver v. AT&T Wireless Servs., 76 Cal. App. 4th 521, 530, 90 Cal. Rptr. 2d 491, 497 (1999)*. For an intangible intrusion as alleged by Plaintiffs to state a viable claim, they must allege "that their alleged loss resulted from an intangible intrusion onto their property which has 'resulted in a

burden on the property that is direct, substantial, and peculiar to the property itself.'" *Id. at 530-31, 90 Cal. Rptr. 2d at 497* (quoting *San Diego Gas & Elec. Co. v. Superior Court, 13 Cal. 4th 893, 940, 55 Cal. Rptr. 2d 724, 753 (1996)*).

"The mere appearance of a lawful structure on neighboring property cannot give rise to an action in inverse condemnation, which, after all, requires that property be 'taken or damaged for public use' (*Cal. Const., art. I, § 19*) — unless we are to do violence to the words 'taken or damaged' in the constitutional provision upon which such claims are founded. There is no authority for the proposition (and the parties cite none) that plaintiffs are entitled to compensation merely because a large, unattractive structure went up next door." *Id. at 532, 90 Cal. Rptr. 2d at 498*. "'As a general rule, a landowner has no natural right to air, light or an unobstructed view and the law is reluctant to imply such a right.'" *Boxer v. City of Beverly Hills, 246 Cal. App. 4th 1212, 1219, 201 Cal. Rptr. 3d 371, 375 (2016)* (quoting *Pacifica Homeowners' Ass'n v. Wesley Palms Ret. Cmty., 178 Cal. App. 3d 1147, 1152, 224 Cal. Rptr. 380, 382 (1986)*).

Plaintiffs' concerns about the neighboring development, and the potential diminution in their property value and the loss of view and light, do not state a cognizable takings claim under the California constitution. See [*11] *id. at 1224, 201 Cal. Rptr. 3d at 380* ("[Plaintiffs] do not have a property right to an unobstructed view, and they have not alleged that either the trees in question or anything associated with the trees physically invades their property, either tangibly or intangibly. They have not alleged any intrusion at all, let alone one with consequences not far removed from a direct physical intrusion. Therefore plaintiffs cannot maintain an inverse condemnation cause of action.").

C. Procedural Due Process

Plaintiffs additionally contend that Defendants denied them due process by failing to provide adequate notice of the potential approval of the development on the neighboring parcel. "Procedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment." *Mathews v. Eldridge, 424 U.S. 319, 332, 96 S. Ct. 893, 47 L. Ed. 2d 18 (1976)*. "A section 1983 claim based upon procedural due process thus has three elements: (1) a liberty or property interest protected by the Constitution; (2) a deprivation of the interest by the government; (3) lack of process." *Portman v. Cty. of Santa Clara, 995 F.2d 898, 904 (9th Cir. 1993)*. "In procedural due process claims, the deprivation of a constitutionally protected interest 'is not itself unconstitutional; what is unconstitutional is the deprivation of such [*12] an interest without due process of law.'" Humphries, 554 F. 3d at 1185 (quoting *Zinermon v. Burch, 494 U.S. 113, 125, 110 S. Ct. 975, 108 L. Ed. 2d 100 (1990)*). The analysis for such claims "proceeds in two steps: 'the first asks whether there exists a liberty or property interest which has been interfered with by the State; the second examines whether the procedures attendant upon that deprivation were constitutionally sufficient.'" *Id. at 1184-85* (quoting *Ky. Dep't of Corr. v. Thompson, 490 U.S. 454, 460, 109 S. Ct. 1904, 104 L. Ed. 2d 506 (1989)*).

"'Because the Constitution protects rather than creates property interests, the existence of a property interest is determined by reference to 'existing rules or understandings that stem from an independent source such as state law.'" *Zeyen v. Bonneville Joint Dist., # 93, 114 F.4th 1129, 1139-40 (9th Cir. 2024)* (quoting *Phillips v. Wash. Legal Found., 524 U.S. 156, 164, 118 S. Ct. 1925, 1930, 141 L. Ed. 2d 174 (1998)*). As the Ninth Circuit has explained, "[w]ith respect to claims arising under the Takings Clause, the phrase at issue—private property—is given a narrower meaning than in other legal contexts, particularly compared to the Due Process Clause of the Fourteenth Amendment." *Id. at 1141*.

Here, however, the only property interest identified by Plaintiffs to support their procedural due process claim is identical to the property interest identified in their federal and state takings claims. Specifically, the Complaint's second claim for violation of procedural due process incorporates all of the preceding paragraphs and alleges that the approval of the development project on the neighboring [*13] parcel "constitutes a regulatory taking and the developers should be enjoined from proceeding with the development unless Plaintiff is awarded just compensation for the loss of their single-family home." (Compl. ¶ 27.) The Court asked for additional briefing concerning the property interest supporting the procedural due process claim. Plaintiffs identified no source of a property or liberty interest other than the same facts supporting their takings claims. As the Court has already concluded, the facts alleged by Plaintiffs do not support a viable takings claim under federal or California law. Nor have Plaintiffs identified any legal authority that grants to them a vested or non-

vested property right in the light, air, view, or value of their property that is violated by the approval of the development project on the neighboring parcel. Because Plaintiffs have not identified a protectable property interest, their procedural due process claims fails at the first step of the analysis. They have alleged no government action that has deprived them of a protected property or liberty interest.[1]

Conclusion

For all of the foregoing reasons, the Court concludes that Plaintiffs have failed to state [*14] a viable takings claim under federal or California law and that their procedural due process claim fails as a matter of law. The Court therefore grants Defendants' Motions to Dismiss. Although Plaintiffs have requested leave to amend, they have provided no additional facts they could allege that would cure the defects identified by the Court. Indeed, in their Oppositions to the Motions to Dismiss, Plaintiffs state in support of their request for leave to amend, that "[w]here dismissal is based on timing, notice, or standing capacity, leave to amend is routinely granted." The Court has not granted the Motions to Dismiss on any of these grounds. The circumstances of this case simply do not support the claims they seek to assert. The Court therefore concludes that leave to amend would be futile. The Court dismisses Plaintiffs' claims without leave to amend and with prejudice. The Court will issue a Judgment consistent with this Order.

IT IS SO ORDERED.

End of Document

---

[1] The BBC Parties are not state actors and obtaining the City's approval to build affordable housing did not transform them into an arm of the state. Each of Plaintiffs' claims against the BBC Parties fail for this additional reason.