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Hite v. Falcon Partners

No. 197 WDA 2010; 13 A.3d 942 (W.D. Pa. Jan. 11, 2011)

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After the Court of Common Pleas granted summary judgment to Plaintiff landowners in a dispute over several oil and gas leases, Defendant Falcon Partners (“Falcon”) appealed to the Superior Court of Pennsylvania, where the decision was affirmed.

Falcon, the holder of multiple natural gas leases, had not commenced drilling operations when the primary term of the lease lapsed. As delayed rental payments were required under the lease until production began, Falcon was sending checks to all landowners for \$2.00 per acre per day no activity was taking place. After the landowners were presented with offers from competing gas companies, they sent Falcon a termination letter and expressed their intent to enter another lease.

Falcon argued to the Court the delayed rental payments protected their mineral interest, and bound the landowners to the terms of the lease. The landowners argued that delayed rental payments only protected the lessee’s drilling rights during the primary

term of the lease, and that if this term expires before production begins the lessee loses all drilling rights.

The court noted inconsistencies between the judicially recognized implied covenant to develop the leasehold and the delayed rental clause. These two diverging terms are resolved in favor of prompt development. The court ruled that a lessee could not postpone development indefinitely by the mere payment of delay rentals. Delay rentals function to relieve the lessee of the obligation to develop the leasehold during the primary term of the lease; beyond the primary term, the mere payment of delay rentals will not protect a lessee's drilling rights. Accordingly, the ruling of the lower court was affirmed, and the landowners were free to sign new leases.



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