

PLAINTIFF'S REQUESTED CHARGE NO. 1

*Given
Deputy, Madison
Judge*

The Court charges you that the measure of damages and compensation to be awarded the landowners in this case is any difference between the market value of the entire tract of land belonging to the landowners immediately prior to the filing of the application for condemnation in this case, and the value of such tract immediately after the taking by the plaintiff, Alabama Power Company, of the rights described in the application for condemnation.

PLAINTIFF'S REQUESTED CHARGE NO. 2

The Court charges you that the term "market value" of lands, as used in this case, means the price that in all probability would result from fair negotiations where the seller is willing to sell and the buyer desires to buy.

Dwain
Jefair J. Mathews
Judge

PLAINTIFF'S REQUESTED CHARGE NO. 3

The Court charges the jury that in assessing the damages to the property of the landowners, you should not take into consideration as an element of damages that which is remote or imaginary or uncertain or speculative, even though mentioned or testified about by witnesses, and that the compensation to be awarded in this cause extends only to that representing some proximate and direct physical disturbance of a property right in excess of that sustained by the general public.

Sixen
Judge of the Court
Judge

PLAINTIFF'S REQUESTED CHARGE NO. 4

I charge you that in arriving at the damages to which the landowners in this case are entitled, you cannot take into consideration any testimony as to depreciation in market value of the land on account of any sentiment or prejudice a prospective buyer might have against the presence of the transmission line installed by the plaintiff, Alabama Power Company, on property adjacent to that of the landowners.

*Given,
Jefferson J. Marshall
Judge*

PLAINTIFF'S REQUESTED CHARGE NO. 5

The Court charges you that the landowners are not entitled to recover any damages on account of any fears prospective purchasers of the property may entertain as to possible, fanciful or imaginary dangers resulting from the building and use of the transmission line adjacent to the property of these landowners, on the property sought to be condemned.

Dices,
Jeffrey J. Maddux
Judge

PLAINTIFF'S REQUESTED CHARGE NO. 6

The Court charges the jury that the plaintiff in this case acquires only the right to clear and remove such timber on the property of the landowners as might endanger its transmission line on adjacent property, plus the right to install guy wires and anchors at the three locations mentioned in the complaint, and that the title to such lands remains in the landowners, and that they have the right to use such lands in any manner which does not interfere with those rights being acquired by the plaintiff.

Given,
Jeffrey J. Masles
Judge

PLAINTIFF'S REQUESTED CHARGE NO. 7

I charge you that if you are reasonably satisfied from the evidence in this case that any witness has magnified or exaggerated the damages to the land, on account of his interest in the outcome of this action, or his prejudice, or want of knowledge or experience or truthfulness, then you have the right, and it is your duty, to disregard the evidence of such witness insofar as the same is unjustly magnified or unjustly increased.

Given,
Jefair J. MacLennan
Judge.

PLAINTIFF'S REQUESTED CHARGE NO. 8

I charge you that, in proceedings of this kind, damages are recoverable only for the physical disturbance of a property right, and the mere fear of a remote and contingent injury which may possibly occur, but the happening of which is altogether speculative and uncertain is not regarded by law as an element entering into the determination of the damages which may be allowed the landowners.

Super,
Jeffrey J. Madalena
Judge

PLAINTIFF'S REQUESTED CHARGE NO. 9

The Court charges the jury that along those areas where the plaintiff seeks to acquire the right to clear and remove timber which might endanger its transmission lines on adjacent lands, the landowners retain every right in the land now owned by them except the right to grow timber of such size as might endanger such lines, and that the landowners may build fences along their property lines, construct buildings or other structures without restriction, build roads and prevent the plaintiff, Alabama Power Company, from using their property in any manner in connection with such transmission lines on adjacent property other than the right to clear and remove such trees as might endanger such transmission line.

Given
Dejair J. Madaleno
Judge

PLAINTIFF'S REQUESTED CHARGE NO. 10

The Court charges the jury that the only facilities which the plaintiff acquires the right to place on the lands of the defendants in this proceeding are guy wires and anchors at the three locations described in the application for condemnation, as amended.

*Given
before me, Master
Judge*

PLAINTIFF'S REQUESTED CHARGE NO. 11

*sworn
deputy marshal
judge*

The Court charges the jury that in the event the plaintiff were to injure the lands of the defendants in any manner in clearing and removing timber which might endanger its transmission lines on adjacent lands, then in that event, the plaintiff would be required to compensate the owners of the property at that time for any such consequential damages other than and in addition to the timber itself.

DEFENDANT'S REQUESTED CHARGE NO. 9

I charge you, Gentlemen of the Jury, that the right of Plaintiff, Alabama Power Company, to trim those pecan trees, as may injure or endanger by falling or otherwise the towers, poles, wire lines and other appliances that are to be hereafter constructed on the easement to be acquired, is a continuing servitude, and is a measure of damages to be considered by you in this cause when you make your award to Max Schneider.

*Given
definitely, made known
judge*

DEFENDANT'S REQUESTED CHARGE NO. 6

I charge you, Gentlemen of the Jury, that the injury to the market value of the pecan trees remaining on Max Schneider's land in the adjacent zone to the strip of land taken for the easement, by reason of the continuing right to trim the pecan trees as they grow high enough to endanger the Alabama Power Company's powerline is an element of compensation or damages to be considered by you in determining your award to Max Schneider.

Given
Jefair J. Matthews
Judge

DEFENDANT'S REQUESTED CHARGE NO. 5

I charge you, Gentlemen of the Jury, that weight of evidence on question of damages in condemnation proceedings is entirely for the jury.

Given,
Defendant's motion
judge.

DEFENDANT'S REQUESTED CHARGE NO. 4

I charge you, Gentlemen of the Jury, that "value" as used in reference to value of property taken in condemnation proceeding is a relative term whose meaning depends on the circumstances; it ordinarily means 'market value', and the owner of the property taken is entitled to its market value, its "cash market value", "fair market value", "reasonable market value" or "fair cash market value" all of which expressions are substantially synonymous.

Given
Jeffrey J. Marshall
Judge

DEFENDANT'S REQUESTED CHARGE NO. 3

I charge you, Gentlemen of the Jury, that in condemnation proceedings, that the measure of the property owner's damages is the difference between the fair market value of the property prior to the taking and the fair market value of the remaining part after the taking, giving effect to any enhancement or damage to the part remaining.

Given
before me, *W. H. [unclear]*
Judge

DEFENDANT'S REQUESTED CHARGE NO. 2

I charge you, Gentlemen of the Jury, that the test of market value of property condemned is what it would reasonably have sold for in the market at the time and place under like conditions, and is the price the property will bring when offered for sale by a willing seller, who is not forced to sell, and is sought by a willing buyer, not required to buy, after due consideration of all elements effecting value.

Superior
Seaford, Delaware
Judge

DEFENDANT'S REQUESTED CHARGE NO.

7

I charge you, Gentlemen of the Jury, that the injury to the market value of the pecan trees remaining on Max Schneider's land in the adjacent zone to the strip of land taken for the easement, by reason of the installation of guy wires and anchors in a southerly direction from the pole to be erected on the highway right-of-way near the center of the north line of the Northeast Quarter of the Northwest Quarter, Section 28, Township 6 South, Range 2 East, is an element of compensation or damages to be considered by you in determining your award to Max Schneider.

Refused
Jeffrey J. Marshall
judge

DEFENDANT'S REQUESTED CHARGE NO. 8

I charge you, Gentlemen of the Jury, that the injury to the market value of the pecan trees remaining on Max Schneider's land in the adjacent zone to the strip of land taken for the easement, by reason of installing a stub pole and guy wires along the fence row near the small pond located behind, or to the East, of Max Schneider's large barn in the Northwest corner of Section 28, Township 6 South, Range 2 East, is an element of compensation or damages to be considered by you in determining your award to Max Schneider.

*Refused,
Defendant made over
judge*

DEFENDANT'S REQUESTED CHARGE NO. 1

I charge you, Gentlemen of the Jury, that the general rule in condemnation proceedings where only part of a tract of land is taken is that the owner is entitled to difference between value of entire tract immediately before taking and value of part of tract remaining after taking.

*Refused
Defendant's measure
judges*