



IN THE
Indiana Supreme Court

Supreme Court Case No. 25S-PL-66

Hoagland Family Limited Partnership, et al.,
Appellants-Plaintiffs

—v—

Town of Clear Lake, Clear Lake Town Council, et al.,
Appellees-Defendants

Decided: March 18, 2025

Appeal from the Steuben Superior Court

No. 76D01-2305-PL-237

The Honorable William C. Fee

On Petition to Transfer from the Indiana Court of Appeals

No. 23A-PL-2808

Per Curiam Opinion

Chief Justice Rush and Justices Massa, Slaughter, Goff, and Molter concur.

Per curiam.

Since 2010, the Hoagland Family Limited Partnership and its namesake partners (collectively “Hoagland”) and the Town of Clear Lake (“the Town”) have been litigating a sewage hookup dispute in the Steuben Circuit Court under case number 76C01-1006-PL-425 (“Case 425”). That case remains pending.

In 2023, Hoagland filed a complaint in the Steuben Superior Court under case 76D01-2305-PL-237 (“Case 237”) against the Town and several of its governing bodies, elected officials, employees, and contractors (collectively “Defendants”). Hoagland’s claims derived from the facts and circumstances litigated in Case 425, so on Defendants’ motion, the superior court dismissed Hoagland’s complaint under Trial Rule 12(B)(8) (“same action pending in another state court of this state”). Hoagland does not argue that the superior court abused its discretion in doing so. Instead, Hoagland takes issue with the superior court’s decision to dismiss Case 237 *with* prejudice. We agree that this was in error. We therefore grant transfer, vacating the Court of Appeals opinion affirming the superior court’s decision. Ind. Appellate Rule 58(A). We remand with instructions to dismiss Case 237 *without* prejudice.

“A dismissal with prejudice is similar to a judgment on the merits in that it precludes relitigation of the merits[.]” *River Ridge Dev. Auth. v. Outfront Media, LLC*, 146 N.E.3d 906, 914 (Ind. 2020) (quotation omitted). “[A] dismissal with prejudice is conclusive of the rights of the parties and is res judicata as to any questions that might have been litigated.” *Richter v. Asbestos Insulating & Roofing*, 790 N.E.2d 1000, 1002–03 (Ind. Ct. App. 2003) (citation omitted). Our res judicata doctrine supports this, as it requires: (1) a former judgment rendered by a court of competent jurisdiction; (2) a former judgment rendered on the merits; (3) the opportunity for the matter to have been determined in a prior suit; and (4) the same parties “or their privies.” *Chemco Transp., Inc. v. Conn*, 527 N.E.2d 179, 181 (Ind. 1988) (citation omitted). All four elements are present here.

Defendants argue that dismissal of Hoagland’s claims with prejudice is appropriate, as Hoagland can pursue its claims in Case 425. And Hoagland can certainly attempt as much. But because Hoagland’s claims were decided in favor of Defendants and on the merits, nothing prevents

the Town from answering Hoagland’s claims with an affirmative defense of res judicata under T.R. 8(C) (“A responsive pleading shall set forth affirmatively and carry the burden of proving ... res judicata[.]”). The superior court’s decision to dismiss Case 237 with prejudice essentially denied Hoagland an opportunity to litigate its claims. And although we do not address the merits of Hoagland’s claims, we reiterate that “[e]nsuring that parties are not prematurely denied their day in court is always important[.]” *Hughley v. State*, 15 N.E.3d 1000, 1005 (Ind. 2014).

Having granted transfer, we remand this matter to the superior court with instructions to issue an order dismissing Case 237 *without* prejudice.

Rush, C.J., and Massa, Slaughter, Goff, and Molter, JJ., concur.

ATTORNEY FOR APPELLANTS

Michael H. Michmerhuizen

Barrett McNagny LLP

Fort Wayne, Indiana

ATTORNEYS FOR APPELLEES TOWN OF CLEAR LAKE, CLEAR LAKE TOWN COUNCIL, CLEAR LAKE BOARD OF WORKS, DARIN THORP, MOLLY WEBER, BRENT SCHLOSSER, DAN RIPPE, GEORGE SCHENKEL, TYSON JOHNSTON, GUY RODGERS, BONNIE BROWN, HAWK, HAYNIE, KAMMEYER & SMITH, LLP, AND DAVID K. HAWK

David K. Hawk

Michael D. Hawk

Hawk, Haynie, Kammeyer & Smith, LLP

Fort Wayne, Indiana

Mark J. Crandley

Barnes & Thornburg LLP

Indianapolis, Indiana

ATTORNEYS FOR APPELLEES ENGINEERING RESOURCES, INC., AND DEREK FREDERICKSON

William E. Kelley, Jr.

Evan M. Norris
Drewry Simmons Vornehm, LLP
Carmel, Indiana

ATTORNEYS FOR APPELLEES CLEAR LAKE ELECTRIC, INC., AND
ADAM BRESSLER

John M. Haecker
Hamilton Law, LLC
Auburn, Indiana