

RECENT DEVELOPMENTS

LANDLORD TENANT

CONSTITUTIONALITY OF NEW YORK RENT STABILIZATION LAW UPHELD

74 Pinehurst LLC v. New York, ___ F.4th ___ (2d Cir. 2023).
<https://law.justia.com/cases/federal/appellate-courts/ca2/21-467/21-467-2023-02-06.html>

Cnty. Hous. Improvement Program v. City of New York, ___ F.4th ___ (2d Cir. 2023).
<https://cases.justia.com/federal/appellate-courts/ca2/20-3366/20-3366-2023-02-06.pdf?ts=1675697455>

FACTS: Plaintiffs-Appellants in 74 Pinehurst LLC v. New York (“Pinehurst”) and Cnty. Hous. Improvement Program v. City of New York (collectively, “Landlords”) owned apartment buildings

To show that a law is unconstitutional in its application, the plaintiff must show that the regulation goes “too far” in restricting a landowner’s ability to use his own property.

in New York City subject to the Rent Stabilization Law (“RSL”). Pinehurst claimed that the RSL compelled landlords to offer renewal leases to at least one tenant to whom they would not voluntarily lease an apartment, that successor rights forced landlords to continue leasing to a deceased tenant’s relatives, and that landlords were prevented from reclaiming an apartment for personal use. The Landlords contended that the RSL interfered with their ability to evict tenants and reclaim units for personal use, and allowed the transfer of tenancies to successors. Pinehurst and the Landlords alleged that the RSL was unconstitutional because it acted as a physical and regulatory taking of their properties.

The district court held that Pinehurst and the

Landlords failed to meet the standard for showing the RSL was unconstitutional. Pinehurst and the Landlords appealed.

HOLDING: Affirmed.

REASONING: The Landlords alleged that the RSL was unconstitutional because the laws were facially physical and regulatory takings. Pinehurst contended that the RSL constituted an as-applied physical taking. The court disagreed.

To show that a law is facially unconstitutional, the plaintiff must show that the statute is unconstitutional in all its applications. The court held that the RSL was not unconstitutional in all its applications because the RSL regulated land use rather than effecting a physical occupation, did not bar landowners from renting property or changing the ownership, and did not violate Plaintiffs-Appellants’ due process. The Plaintiffs in both cases failed to plausibly allege there were no set circumstances that exist under which the RSL would be valid.

The court found that requirements for landlords under New York’s Housing Stability and Tenant Protection Act are conditional, so they do not amount to a permanent physical occupation by the government. The States have broad powers to regulate housing inclusive to the landlord-tenant relationship, without compensating landlords for all the attendant economic injuries. The court also held that an ensuing economic disadvantage from such regulation did not rise to the level of a regulatory or physical taking.

To show that a law is unconstitutional in its application, the plaintiff must show that the regulation goes “too far” in restricting a landowner’s ability to use his own property. The court held that this issue was unripe to be ruled on because Pinehurst did not avail itself of any of the hardship exemptions. The Supreme Court has made clear that a plaintiff’s failure to exhaust administrative procedures may render a claim unripe including where the plaintiff has “an opportunity to seek a variance.” Both opinions cited precedent upholding rent stabilization because laws merely limiting a person’s rights do not rise to the level of barring their rights completely.