

Docket Nos. 95243, 95253, 95256, 95280 cons.-Agenda

10-September 2003.

THE CITY OF CHICAGO *et al.*, Appellees, v. BERETTA U.S.A. CORPORATION *et al.*, Appellants.

Opinion filed November 18, 2004.

JUSTICE GARMAN delivered the opinion of the court:

The tragic personal consequences of gun violence are inestimable. The burdens imposed upon society as a whole in the costs of law enforcement and medical services are immense. In the present case, the City of Chicago and Cook County, in an effort to stem the rising tide of gun violence and to recoup some of the expenses that flow from gun crimes, have sued 18 manufacturers, 4 distributors, and 11 dealers of handguns that have been illegally possessed and used in the city. For various reasons, 13 manufacturers, 2 distributors, and 8 dealers remain as defendants in this case. The theory of liability is public nuisance. The relief sought by the City includes compensation for the costs of emergency medical services, law enforcement efforts, the prosecution of violations of gun control ordinances, and other related expenses. The County seeks compensation for the costs of treatment of victims of gun violence and the costs of prosecutions for criminal use of firearms, including the expenses associated with providing defense counsel to those accused of gun crimes. Both plaintiffs seek punitive damages and permanent injunctive relief to abate the alleged public nuisance.

In the circuit court of Cook County, defendants sought dismissal of the lawsuit under section 2-615 of the Code of Civil Procedure (Code) (735 ILCS 5/2-615 (West 2000)), on the basis that plaintiffs failed to state a cause of action for public nuisance. The circuit court granted the motion to dismiss.

The appellate court, construing the facts in a light most favorable to the plaintiffs, found that based on the specific acts alleged in the complaint, plaintiffs had sufficiently stated a cause of action for public nuisance against all three classes of defendants, reversed the trial court, and remanded for further proceedings. 337 Ill. App. 3d 1, 18.

We granted defendants' petitions for leave to appeal pursuant to Rule 315(a) (177 Ill. 2d R. 315(a)). Pursuant to Supreme Court Rule 345 (155 Ill. 2d R. 345), we have permitted the National Association of Manufacturers and the Product Liability Advisory Council to file briefs *amici curiae* on behalf of the defendants. We have also permitted the Attorney General of the State of Illinois and the National League of Cities, along with the U.S. Conference of Mayors and the International Municipal Lawyers Association, to file briefs *amici curiae* on behalf of the plaintiffs.

## I. BACKGROUND

Plaintiffs filed this suit in November 1998 and their first amended complaint in April 1999. On February 10, 2000, the trial court granted defendants' motion to dismiss with respect to count II, negligent entrustment, and reserved ruling on count I, public nuisance. In March 2000, plaintiffs were permitted to file a second amended complaint. On September 15, 2000, the trial court granted defendants' motion to dismiss both counts, with prejudice. On appeal, plaintiffs raised only the dismissal of the public nuisance count of the second amended complaint.

All of the defendants-manufacturers, distributors, and dealers-are federally licensed to engage in their

