DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

Higgs v. Warrick

994 So. 2d 492 (Fla. 3d DCA 2008) · No. No. 3D08-564 · Decided November 12, 2008

SUMMARY

The Florida Third District Court of Appeal affirmed a summary final judgment granting a homeowner a homestead exemption. The court held that a homeowner occupying a residential property under a bona fide lease with an original term of 98 years or more qualifies for the exemption under sections 196.031 and 196.041, Florida Statutes (2005), and certified conflict with contrary authority.

CASE DETAILS

COURT	District Court of Appeal of Florida, Third District
WRITING FOR THE COURT	Gersten, C.J.; Ramirez, J.; Schwartz, Senior Judge
JURISDICTION	Florida
DECIDED	November 12, 2008
DOCKET	No. 3D08-564
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Monroe County property appraiser appealed from a summary final judgment affirming a Value Adjustment Board decision granting the homeowner a homestead exemption.
STANDARD OF REVIEW	De novo review of the summary final judgment and the interpretation of the homestead exemption statutes.
PRECEDENTIAL VALUE	Published precedential opinion; conflict certified.
PARTIES	Ervin A. Higgs, property appraiser for Monroe County, Florida v. William Leo Warrick

TOPICS

homestead · property tax · statutory interpretation · real estate

PRACTICE AREAS

Florida property tax · homestead exemption · statutory interpretation · summary judgment

QUESTIONS PRESENTED

1. Whether a person who permanently occupies a residential parcel under a bona fide lease with an original term of ninety-eight years or more has sufficient legal or beneficial title to qualify for a Florida homestead exemption under sections 196.031 and 196.041, Florida Statutes (2005).

HOLDINGS

1. A lessee owning a leasehold interest in a bona fide residential lease with an original term of ninety-eight years or more is deemed to have legal or beneficial and equitable title and qualifies for a homestead exemption when the property is permanently occupied as a residence.

KEY QUOTATIONS

> *"The plain and ordinary meaning of sections 196.031 and 196.041 clearly provides that a 98-year-plus lessee of a residential parcel permanently occupied as a residence qualifies for a homestead exemption."* (493)

FACTUAL BACKGROUND

The homeowner placed his single-family Monroe County residence into a trust and continued to live there. As trustee, he initially applied for and received a homestead exemption. He later transferred the trust to his heirs in exchange for a ninety-nine-year lease on the property, continued to reside there, and was then denied the exemption by the property appraiser.

PROCEDURAL HISTORY

After Warrick transferred his residence into a trust and later transferred the trust to his heirs in exchange for a ninety-nine-year lease, the property appraiser denied his homestead exemption. Warrick petitioned the Value Adjustment Board, which granted the exemption. The property appraiser challenged that ruling in circuit court, which entered summary final judgment for Warrick. The Third District affirmed.

DISPOSITION

affirmed

CASES CITED

- Koile v. State, 934 So. 2d 1226 (Fla. 2006)
- Prewitt Management Corp. v. Nikolits, 795 So. 2d 1001 (Fla. 4th DCA 2001)

OPINION

PER CURIAM.

994 So. 2d 492 (2008) Ervin A. HIGGS, etc., Appellant, v. William Leo WARRICK, etc., Appellee. No. 3D08-564. District Court of Appeal of Florida, Third District. November 12, 2008. R. Laine Wilson Harris, John C. Dent, Jr., and Dent & Johnson, Sarasota, for appellant. Katz-Baskies, Jeffrey A. Baskies, Boca Raton, Ruden, McClosky, Smith, Schuster & Russell, and John H. Pelzer, Ft.

Lauderdale, for appellee. Before GERSTEN, C.J., RAMIREZ, J., and SCHWARTZ, Senior Judge. GERSTEN, C.J. Ervin A. Higgs, property appraiser for Monroe County, Florida ("the property appraiser"), appeals from an adverse summary final judgment in favor of William Leo Warrick ("the homeowner").

We affirm. The homeowner created a trust using his single family Monroe County residence as the res. After the homeowner placed his home in the trust, he continued to reside in the home. Thereafter, the homeowner, as trustee, applied for and received homestead exemption on the property. Subsequently, the homeowner transferred the trust to his heirs in exchange for a *493 ninety-nine-year lease on the property.

Following this transfer, although he continued to reside in the home, the property appraiser denied the homeowner his homestead exemption. The homeowner, pursuant to his administrative right, petitioned the Value Adjustment Board ("VAB") for his homestead exemption.

After the VAB granted the homeowner the homestead exemption, the property appraiser challenged the VAB's ruling in the circuit court. The circuit court entered final summary judgment in favor of the homeowner, and the property appraiser appealed.

On appeal, the property appraiser contends that the VAB misinterpreted the applicable homestead exemption statutes. The homeowner, however, asserts that the trial court correctly entered summary judgment based upon the homestead statutes.

We agree with the homeowner. At the outset, courts interpret statutes by first looking to the actual language of the statute, and reading that language for its plain and ordinary meaning. See e.g., Koile v. State, 934 So. 2d 1226 (Fla.2006).

Here, the pertinent statutes are sections 196.031 and 196.041, Florida Statutes (2005). Section 196.031 provides a homestead exemption to [e]very person who... has the legal or beneficial title in equity to real property in this state and who resides thereon and in good faith makes the same his or her permanent residence. Section 196.041 states that lessees owning the leasehold interest in a bona fide lease having an original term of 98 years or more in a residential parcel... shall be deemed to have legal or beneficial and equitable title to said property.

The plain and ordinary meaning of sections 196.031 and 196.041 clearly provides that a 98-year-plus lessee of a residential parcel permanently occupied as a residence qualifies for a homestead exemption. Therefore, both the VAB and the trial court correctly determined that the homeowner should receive a homestead exemption.

Accordingly, we affirm the judgment below. To the extent our ruling conflicts with Prewitt Management Corp. v. Nikolits, 795 So. 2d 1001 (Fla. 4th DCA 2001), we certify conflict. Affirmed.