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)