

INDIANA SUPREME COURT

Anderson v. Gaudin

42 N.E.3d 82 (Ind. 2015) · No. 07A01-1406-PL-265 · Decided September 1, 2015

SUMMARY

The Indiana Supreme Court held that a county board of commissioners had authority under Indiana's Home Rule Act and the Fire District Act to amend an ordinance establishing a county-wide fire protection district. The court concluded that the amended ordinance was a valid exercise of authority, even though the amendment allegedly amounted to a de facto dissolution of the district. The court reversed summary judgment for the landowners and remanded for further proceedings.

OPINION

DICKSON, J.

On Transfer from the Indiana Court of Appeals, No. 07A01-1406-PL-265 DICKSON, Justice. This appeal challenges a summary judgment ruling that a county board of commissioners lacked authority to amend an ordinance that previously established a county-wide fire protection district.

We reverse. This is the third appeal involving the Brown County Fire Protection District ("District"). In 2007, the Brown County Board of Commissioners enacted an ordinance under the Fire District Act, Ind. Code § 36-8-11-2 et seq., establishing the District. This ordinance included all four of the county's townships and established the District for the following purposes: fire protection, fire prevention, other purposes or functions related to fire protection and prevention, and other emergency services.

Appellants' App'x at 139-40. The ordinance also followed many sections of the Fire District Act, including the appointment of a five-member Board of Fire Trustees for the District. See Ind.Code § 36-8-11-12. The Board of Commissioners' authority to establish the District was then challenged by county landowners who argued that the petition process under Indiana Code section 36-8-11-5 was the sole method in which a fire district could be created.

In *Sanders v. Bd. of Comm'rs of Brown Cty.*, 892 N.E.2d 1249 (Ind.Ct.App.2008), trans. denied, the Court of Appeals rejected the landowners' argument and held that the Board of Commissioners had authority to create the District by ordinance under Indiana Code section 36-8-11-4. *Id.* at 1254. Following the 2008 election, newly elected commissioners enacted an ordinance purporting to dissolve the District.

This prompted a second legal challenge by some landowners. Although the trial court granted summary judgment to the commissioners, the Court of Appeals reversed on grounds that, because

the Fire District Act identifies two methods for the establishment of a fire protection district but mentions only one method for the dissolution of a district (the petition process described in Indiana Code section 36-8-11-24), the Board of Commissioners lacked the authority to unilaterally dissolve the District by ordinance absent such petition process.

Gaudin v. Austin, 921 N.E.2d 895, 899 (Ind.Ct.App.2010) (“*Gaudin 7*”). We initially granted transfer thereby automatically vacating the opinion of the Court of Appeals. See Ind. Appellate Rule 58(A). We held oral argument, but because of our ensuing inconclusive 2-2 vote, the opinion of the Court of Appeals was reinstated. See Ind. Appellate Rule 58(C).

In March 2011, a few months after the decision in *Gaudin I* became final, the Board of Commissioners passed an amending ordinance that (a) removed a township from the District with the explanation that its earlier inclusion was erroneous because the township had its own fire prevention district; (b) reduced the number of trustees from five to three to correspond with the three remaining townships; (c) provided that “the sole purpose of the [District] shall be to conduct fire protection education within the District”; and (d) reduced the District’s taxing powers, urging it to seek funding through non-tax sources, such as grants and donations.

Appellants’ App’x at 148. In August 2011, several county landowners sued various commissioners and the Board of Trustees, Brown County Fire Protection District, seeking a declaration that the latest amendments were void. Mediation in September 2013 resulted in partial agreement and the stipulation of a question to be resolved by cross-motions for summary judgment: “Is the amended ordinance 09-04-07-01 a valid exercise of the authority of the Brown County Commissioners?” *Id.* at 37.

The trial court granted summary judgment to the landowners, concluding that the amending ordinance was a de facto dissolution and improper attempt by the Board of Commissioners to circumvent *Gaudin I*. The Court of Appeals affirmed. *Anderson v. Gaudin*, 24 N.E.3d 479 (Ind.Ct.App.2015).

We granted transfer and now, disapproving of *Gaudin I*, reverse the grant of summary judgment. In its review of a summary judgment, an appellate court applies the same standard as the trial court: summary judgment may be granted only “if the designated evidentiary matter shows that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Ind. Trial Rule 56(C), cited in *City of North Vernon v. Jennings Nw.*

Reg’l Utils., 829 N.E.2d 1, 3 (Ind.2005). Further, statutory interpretation is a question of law that we review de novo. *Andrews v. Mor/Ryde Int’l, Inc.*, 10 N.E.3d 502, 504 (Ind.2014). In interpreting a statute, the first step is to determine whether the Legislature has spoken clearly and unambiguously on the point in question. *Jennings*, 829 N.E.2d at 4. When a statute is clear and unambiguous, we apply words and phrases in their plain, ordinary, and usual sense.

Id. “[W]hen a statute is susceptible to more than one interpretation it is deemed ambiguous and thus open to judicial construction.” Id. When faced with an ambiguous statute, our primary goal is to determine, give effect to, and implement the intent of the Legislature with well-established rules of statutory construction. Id. We examine the statute as a whole, reading its sections together so that no part is rendered meaningless if it can be harmonized with the remainder of the statute.

Id. at 4-5. “And we do not presume that the Legislature intended language used in a statute to be applied illogically or to bring about an unjust or absurd result.” Id. at 5. ■ In their appeal, the commissioners •argue in part that nothing in the Fire District Act “forbids” or “even refers to” amending an ordinance establishing a district and that, absent such a prohibition, Indiana’s Home Rule Act permits amendment.

Appellants’ Br. at 10. The commissioners further contend that the amending ordinance was only a diminution of the District’s purposes and not a de facto dissolution. The landowners argue that the amending ordinance was a defacto dissolution of the Original Ordinance and respond that “the Fire District Act still expressly specifies the manner of dissolution, of the District” and that “the Home Rule statute leaves the Commissioners no room to interfere with the structure, and by so doing effectively dissolve the District.” Appellees’ Br. at 7. *86Under Indiana’s Home Rule Act, “a unit¹ may exercise any power it has to the extent that the power: (1) is not expressly denied by the Indiana Constitution or by statute; and (2) is not expressly granted to another entity.” Ind.Code § 36-1-3-5(a), cited, in *Kole v. Faultless*, 963 N.E.2d 493, 496 (Ind.2012).

Any doubt as to the existence of a unit’s power must be resolved in favor of its existence. Ind.Code § 36-1-3-3(b). We agree with the commissioners— and the landowners do not dispute—that no provision in the Fire District Act addresses amendments generally, nor does the Act expressly deny or expressly grant to another entity the power of the Board of Commissioners to amend an ordinance that previously established a county-wide fire protection district.

The landowners also urge, however, that “by- establishing the district,, which then became a separate entity, the Board of Commissioners ■ necessarily and expressly granted, to the Board of Trustees all.of the powers and authority enumerated in the original ordinance.” Appellees’ Br. at 10.

The landowners stress. language from a provision in the Fire District Act.listing.a. myriad of powers and duties that fhe board either “shall” or “may” exercise, specifically: “Powers granted by this chapter may be used only to accomplish the purpose or purposes as stated in the ordinance or resolution establishing’ the district.” Id. (quoting Ind.Code § 36-8-11-15(b)) (underline and italics in Appellees’ Brief).

Thus they assert that “[t]he Commissioners’ authority over the District ceased upon its establishment, except to the extent that the Fire District Act allows.” Appellees’ Brief at 9. To

support their argument, the landowners also point to provisions in the Fire District Act which require specific action by or involvement of the county legislative body after a district has been created.

Id. at 19 (citing Ind. Code §§ 36-8-11-11, -23, and -24). The commissioners take a contrary position, contending that Indiana Code section 36-8-11-15(b) “is a limitation upon the powers of the Fire District, not a limitation upon the power of the Commissioners to amend the establishing ordinance.” Reply Br. at 3-4.

The Indiana Legislature has given county legislative bodies the express authority not only to establish a fire protection district, but also to prescribe its scope “for any of the following purposes:” fire protection, fire prevention, and other purposes or functions related to fire protection and fire prevention. Ind.Code § 36-8-11-4(a) (emphasis added).

The authority to amend the purpose(s) of a fire protection district is consistent with the express authority to assign its initial purpose(s). The Board of Commissioners’ authority to amend is further bolstered by provisions in the establishing ordinance explicitly recognizing such authority. See County Ordinance No. 09-04-07-01, Appellants’ App’x at 141 (“The trustee position shall be non-paid, pending any amendment to this Ordinance that authorizes compensation for trustees.”) (emphasis added), 143 (“This initial rate may be lowered in subsequent years but shall not be increased absent preapproval by adoption of an amendment to this Ordinance.”) (emphasis added).

Further, to the extent the Fire District Act recognizes various roles for a county legislative body after a district has been created,² a unit is not limited by the Home Rule Act to “powers expressly granted by statute” but also has “all other powers necessary or desirable in the conduct of its affairs — ” Ind.Code § 36-1-3-4. By establishing the District, the Board of Commissioners did not necessarily and expressly relinquish its authority to amend to the District’s Board of Fire Trustees.

The landowners next contend that the Board of Commissioners does not have authority under the Home Rule Act to amend because any amendment would impose duties on the District, a political subdivision. “[A] unit does not have the... power to impose duties on another political subdivision,³ except as expressly granted by statute.” Ind.Code § 36-1-3-8(a)(3).

The commissioners respond that, in the case of fire protection district municipal corporations, “the Legislature has delegated the power to create them, and it has delegated the power to prescribe the scope of their authority and duties, so long as that authority and those duties are within the limits of the Fire District Act, Ind. Code 36-8-11.” Reply Br. at 6, We agree and find that the Legislature has expressly granted county legislative bodies the authority to create and thereby to amend under the Fire District Act.

We conclude that, under the Home Rule Act, boards of county commissioners are authorized to amend a fire protection district, even if such amendment dissolves the district. While this holding is inconsistent with the reinstated opinion of the Court of Appeals in *Gaudin I*, this Court is now able to review the issue with full participation, and we now disapprove of *Gaudin 4*. The commissioners do not ask this Court to revisit *Gaudin I*; however, the matter on appeal is not a dissolution of the District but a partial amendment of the ordinance that created it.

We thus need not decide whether the Law of the Case Doctrine⁵ prohibits retroactive operation of our holding today. We conclude that under the Home Rule Act, the Board of Commissioners is not limited in its power to unilaterally amend the ordinance that previously established the District, notwithstanding the landowners' claim that such amendment constitutes a *de facto* dissolution.

Conclusion The amended ordinance 09-04-07-01 is a valid exercise of the authority of the Brown County Board of Commissioners. We reverse the trial court's order granting summary judgment for the plaintiff landowners and remand to the trial court for further proceedings. RUSH, C.J., and MASSA, J., concur. DAVID, J., concurs in result with separate opinion.

RUCKER, J., dissents with separate opinion. The Brown County Board of Commissioners constitutes a "unit" for purpose of Indiana's Home Rule Act. See Ind.Code § 36-1-2-23 ("Unit" means county, municipality, or township). See Ind.Code § 36-8-11-11 ("To add area to a fire protection district already established, the same procedure must be followed as is provided for the establishment of a district."); Ind.Code § 36-8-11-23 (merger of fire protection districts); Ind.Code § 36-8-11-24(g) (final approval of a dissolution petition).

The parties all agree that a fire protection district is a "municipal corporation," Ind. Code §§ 36-1-2-10, 36-8-11-16, and thus a "political subdivision." Ind.Code § 36-1-2-13. We find that the petition process is merely an optional permissive means, not the sole exclusive method, to institute consideration of dissolution of a fire district by a board of county commissioners.

Under the Law of the Case Doctrine, an appellate court's determination of a legal issue binds both the trial court and "the court on appeal in any subsequent appeal involving the same case and relevantly similar facts." *Hopkins v. State*, 782 N.E.2d 988, 990 (Ind. 2003). A court may "revisit prior decisions of its own or of a coordinate court in any circumstance, although as a rule courts should be loathe to do so in the absence of extraordinary circumstances such as where the initial decision was 'clearly erroneous and would work manifest injustice.'" *Id.* (quoting *State v. Huffman*, 643 N.E.2d 899, 901 (Ind.1994)).

The present appeal does not question the authority of the Board of Commissioners to unilaterally dissolve the District—the issue determined in *Gaudin I*.