SUPREME COURT OF ALABAMA

Russell Petroleum, Inc. v. City of Wetumpka

976 So. 2d 428 (Ala. 2007) · No. 1041001 · Decided June 15, 2007

SUMMARY

The Alabama Supreme Court reviewed a challenge to the annexation of property into the City of Wetumpka and the City's assessment of business-license fees, gasoline taxes, and sales taxes against Russell Petroleum. The court affirmed the validity of the annexation under Alabama Code § 11-42-6(b), concluding that the required map was timely furnished and open to public inspection. It reversed the sales-tax portion of the judgment because the City had not followed the administrative procedures required by the Taxpayers' Bill of Rights and the Local Tax Simplification Act.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Bolin, Justice; Cobb, Chief Justice; See, Justice; Lyons, Justice; Woodall, Justice; Stuart, Justice; Smith, Justice; Parker, Justice; Murdock, Justice
JURISDICTION	Alabama
DECIDED	June 15, 2007
DOCKET	1041001
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Russell Petroleum appealed an Elmore Circuit Court judgment validating a legislative annexation and ordering it to pay municipal business-license fees, gasoline taxes, sales taxes, and penalties.
STANDARD OF REVIEW	The Supreme Court applied the ore tenus standard to the trial court's factual findings, under which findings based on oral testimony are presumed correct and will not be disturbed absent plain and palpable error, clear error, or a judgment against the great weight of the evidence. It reviewed the summary judgment de novo, viewing the evidence in the light most favorable to the nonmovant and asking whether a genuine issue of material fact existed and whether the movant was entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	published precedential opinion of the Supreme Court of Alabama
PARTIES	Russell Petroleum, Inc. v. City of Wetumpka

TOPICS

municipal law · ordinances · sales and use tax · tax collection · statutory interpretation

PRACTICE AREAS

municipal law · taxation · administrative law · statutory interpretation · constitutional law

QUESTIONS PRESENTED

1. Whether Act No. 2001-543 validly annexed Russell Petroleum's property despite the alleged failure to comply with Ala. Code § 11-42-6(b)'s requirements concerning the filing and public inspection of an annexation map.
2. Whether the Elmore Circuit Court had subject-matter jurisdiction to order Russell Petroleum to pay municipal sales taxes when the City had not first followed the administrative assessment and review procedures required by the Taxpayers' Bill of Rights and Uniform Revenue Procedures Act and the Local Tax Simplification Act.
3. Whether Russell Petroleum waived its jurisdictional objection by interpleading sales-tax funds and withholding other sales taxes.

HOLDINGS

1. The annexation was valid because substantial evidence supported the finding that the annexation map was furnished to the Elmore County probate office by the beginning of the public-notice period and was open to public inspection during that period. Section 11-42-6 does not require the map to be indexed, bound, filed, or recorded in a particular manner.
2. The circuit court lacked subject-matter jurisdiction to adjudicate or order payment of the municipal sales-tax liability because the City did not first comply with the administrative procedures mandated by the Taxpayers' Bill of Rights and Uniform Revenue Procedures Act, as made applicable to municipal sales taxes by the Local Tax Simplification Act.
3. Russell Petroleum did not waive its objection to the circuit court's jurisdiction by paying sales-tax funds into court or withholding other sales taxes.
4. Because the annexation was valid, Russell Petroleum was subject to the City's taxation ordinances after the property became part of the City's municipal limits, and the circuit court had jurisdiction to adjudicate the business-license-fee and municipal-gasoline-tax disputes.

KEY QUOTATIONS

> *“Under this interpretation of the "on file" language in § 11-42-6(b), the proponents of a local act can comply with the requirement regarding the boundary-change map in § 11-42-6 if there is substantial evidence that the map was "open to the inspection of the public" in the probate office during the public-notice period.”* (976 So. 2d at 435)

> *“As in that case, the circuit court here did not have subject-matter jurisdiction to adjudicate the sales-tax issue because the City litigated that dispute without availing itself of the administrative procedures in the*

> *TBOR, which the LTSA made applicable to the assessment of local sales, use, rental, and lodgings taxes."*
> (976 So. 2d at 438)

FACTUAL BACKGROUND

Russell Petroleum operated a convenience store and gasoline station on property along U.S. Highway 231 in Elmore County. The City initially placed the property within its police jurisdiction by ordinance, and the Alabama Legislature later annexed the property into the City's municipal limits through Act No. 2001-543. After the annexation, Russell Petroleum did not obtain a City business license and did not remit municipal gasoline taxes; evidence also showed that it collected municipal sales taxes from retail customers. The City sought to collect the amounts in circuit court, without first using the administrative assessment procedures applicable to municipal sales taxes.

PROCEDURAL HISTORY

The City sued Russell Petroleum in the Elmore Circuit Court to collect unpaid business-license fees and municipal gasoline taxes. Russell Petroleum challenged the validity and constitutionality of the annexation and interpleaded funds into court. After a bench trial, the circuit court upheld the annexation and ordered an audit; it later granted the City's summary-judgment motion and entered a final judgment for license fees, gasoline taxes, sales taxes, and penalties. The Alabama Supreme Court affirmed the annexation ruling and the awards for business-license fees and gasoline taxes, but reversed the sales-tax portion and remanded.

DISPOSITION

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reversed_and_remanded
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REMAND INSTRUCTIONS

Remand for further action consistent with the opinion; the annexation and the awards for business-license fees and municipal gasoline taxes remain affirmed, while the sales-tax portion of the judgment is reversed because the circuit court lacked subject-matter jurisdiction.

CASES CITED

- Robinson v. Evans, 959 So. 2d 634 (Ala. 2006)
- Transamerica Commercial Fin. Corp. v. AmSouth Bank, N.A., 608 So. 2d 375 (Ala. 1992)
- Prince v. Poole, 935 So. 2d 431 (Ala. 2006)
- Prowell v. Children's Hosp. of Alabama, 949 So. 2d 117 (Ala. 2006)
- Ex parte State Dep't of Revenue, 792 So. 2d 380 (Ala. 2000)
- General Motors Acceptance Corp. v. City of Red Bay, 894 So. 2d 650 (Ala. 2004)
- Patterson v. Gladwin Corp., 835 So. 2d 137 (Ala. 2002)
- State v. Amerada Hess Corp., 788 So. 2d 179 (Ala. Civ. App. 2000)