SUPREME COURT OF OHIO

Marysville Exempted Village School District Board of Education v. Union County Board of Revision

Marysville Exempted Village, 136 Ohio St. 3d 146 (Ohio 2013) · No. 2012-1648 · Decided July 17, 2013

SUMMARY

The Supreme Court of Ohio held that R.C. 5715.19(A)(1) validly permits a nonlawyer salaried employee of a corporate property owner to prepare and file a real-property valuation complaint on the corporation’s behalf. The filing properly invoked the jurisdiction of the Union County Board of Revision, and the Board of Tax Appeals erred by ordering dismissal based on unauthorized-practice-of-law concerns. The court reversed and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Maureen O'Connor, Chief Justice; Paul E. Pfeifer, Justice; William M. O'Donnell, Justice; Evelyn Lundberg Stratton Lanzinger, Justice; Maureen O. Kennedy, Justice; R. Patrick DeWine French, Justice; Terrence O'Neill, Justice
JURISDICTION	Ohio
DECIDED	July 17, 2013
DOCKET	2012-1648
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Connolly Construction appealed the Board of Tax Appeals' consolidated decision ordering the valuation complaints remanded to the Union County Board of Revision for dismissal for lack of jurisdiction.
STANDARD OF REVIEW	The court reviewed the Board of Tax Appeals' legal determination concerning jurisdiction and statutory authorization; the opinion also applied the principle that the party invoking jurisdiction bears the burden of establishing the necessary jurisdictional facts.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Connolly Construction Company v. Marysville Exempted Village School District Board of Education, Union County Board of Revision

TOPICS

property tax · tax · administrative law · statutory interpretation · appellate procedure

PRACTICE AREAS

state and local tax · administrative law · real estate · unauthorized practice of law · appellate procedure

QUESTIONS PRESENTED

1. Whether the Board of Tax Appeals could determine the jurisdictional issue despite the sparse record and absence of the original valuation complaints.
2. Whether the Board of Tax Appeals could rely on an appellate decision holding that the statutory authorization for salaried employees to file valuation complaints was unconstitutional or otherwise invalid.
3. Whether R.C. 5715.19(A)(1) validly permits a nonlawyer salaried employee of a corporate property owner to prepare and file a real-property valuation complaint on behalf of the corporation without substantially interfering with the Supreme Court of Ohio's authority to regulate the practice of law.

HOLDINGS

1. Because Connolly Construction did not dispute the school board's factual assertions or identify alternative jurisdictional grounds, the Board of Tax Appeals and the Supreme Court of Ohio could determine the legal issue whether the complaints validly invoked the Board of Revision's jurisdiction.
2. The Board of Tax Appeals had jurisdiction to apply and give effect to the Third District's decision in McDonald's Corp. v. Union County Board of Revision, even though it could not independently decline to apply a statute based on its own constitutional determination.
3. The General Assembly acted within its authority by permitting a nonlawyer salaried employee of a corporate property owner to prepare and file a valuation complaint on behalf of the corporation. Such a complaint validly invokes the jurisdiction of the board of revision.

KEY QUOTATIONS

> *"In sum, we hold that the legislature acted within its authority in amending R.C. 5715.19(A)(1) to permit a salaried employee of a corporation who is not a lawyer to file a complaint on behalf of the corporation."* (¶ 34)

> *"The complaints in this case therefore properly invoked the jurisdiction of the BOR, and dismissal was not warranted."* (¶ 34)

FACTUAL BACKGROUND

Ten real-property valuation complaints were prepared and filed on behalf of Connolly Construction Company by John R. Connolly, a salaried corporate employee who was neither a lawyer nor a corporate officer. The Union County Board of Revision apparently ordered decreases in the property's valuations. The record contained no actual complaints, affidavits, testimony, or Board of Revision transcript, but Connolly did not dispute the school board's factual assertions and relied on R.C. 5715.19(A)(1)'s authorization for salaried employees to file on behalf of corporate property owners.

PROCEDURAL HISTORY

Connolly Construction's salaried employee filed ten real-property valuation complaints on behalf of the corporation. The Union County Board of Revision apparently reduced the property's valuations, and the Marysville school board appealed to the Board of Tax Appeals and moved to dismiss the original complaints as unauthorized practice of law. The Board of Tax Appeals granted the motion and ordered dismissal; the Supreme Court of Ohio reversed and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded to the Board of Tax Appeals for further proceedings because the valuation complaints had not received a determination on the merits. The motion to consolidate was denied as moot with respect to this case.

CASES CITED

- Sharon Village Ltd. v. Licking Cty. Bd. of Revision, 78 Ohio St. 3d 479, 678 N.E.2d 932 (1997)
- Worthington City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision, 85 Ohio St. 3d 156, 707 N.E.2d 499 (1999)
- McDonald's Corp. v. Union Cty. Bd. of Revision, 2012-Ohio-3751, 974 N.E.2d 133 (3d Dist.)
- Ohio Natl. Life Ins. Co. v. United States, 922 F.2d 320, 324 (6th Cir. 1990)
- Rapier v. Union City Non-Ferrous, Inc., 197 F. Supp. 2d 1008, 1012 (S.D. Ohio 2002)
- Oak Hills Local School Dist. Bd. of Edn. v. Hamilton Cty. Bd. of Revision, 134 Ohio St. 3d 539, 2012-Ohio-5750, 983 N.E.2d 1295, ¶ 16-18
- Haskins v. Alcott & Horton, 13 Ohio St. 210, 216 (1862)
- S. Christian Leadership Conference v. Combined Health Dist., 191 Ohio App. 3d 405, 2010-Ohio-6550, 946 N.E.2d 282, ¶ 28 (2d Dist.)
- Castle Aviation, Inc. v. Wilkins, 109 Ohio St. 3d 290, 2006-Ohio-2420, 847 N.E.2d 420, ¶ 35
- Cleveland Gear Co. v. Limbach, 35 Ohio St. 3d 229, 520 N.E.2d 188 (1988), paragraph one of the syllabus
- Global Knowledge Training, L.L.C. v. Levin, 127 Ohio St. 3d 34, 2010-Ohio-4411, 936 N.E.2d 463, ¶ 16
- MCI Telecommunications Corp. v. Limbach, 68 Ohio St. 3d 195, 198, 625 N.E.2d 597 (1994)
- Toledo Pub. Schools Bd. of Edn. v. Lucas Cty. Bd. of Revision, 124 Ohio St. 3d 490, 2010-Ohio-253, 924 N.E.2d 345, ¶ 22, 24, 28, 30
- Dayton Supply & Tool Co., Inc. v. Montgomery Cty. Bd. of Revision, 111 Ohio St. 3d 367, 2006-Ohio-5852, 856 N.E.2d 926, ¶ 7-13

- Columbus City School Dist. Bd. of Edn. v. Franklin Cty. Bd. of Revision, 134 Ohio St. 3d 529, 2012-Ohio-5680, 983 N.E.2d 1285, ¶ 11, 20, 22, 24
- Cleveland Bar Assn. v. CompManagement, Inc., 104 Ohio St. 3d 168, 2004-Ohio-6506, 818 N.E.2d 1181, ¶ 21, 69
- Henize v. Giles, 22 Ohio St. 3d 213, 217, 490 N.E.2d 585 (1986)
- Fremont Oil Co. v. Marathon Oil Co., 26 O.O.2d 109, 92 Ohio Law. Abs. 76, 192 N.E.2d 123, 126 (C.P. 1963)
- Fugo v. Summit Cty. Bd. of Commrs., 9th Dist. Summit No. C.A. 8380, 1977 WL 198883 (June 2, 1977)
- Columbus & Xenia RR. Co. v. Webb's Admr., 12 Ohio St. 475, 492 (1861)
- Land Title Abstract & Trust Co. v. Dworken, 129 Ohio St. 23, 193 N.E. 650 (1934), paragraph one of the syllabus