SUPREME COURT OF SOUTH DAKOTA

Burke v. Butte County

640 N.W.2d 473 (S.D. 2002) · No. No. 21976 · Decided February 6, 2002

SUMMARY

The Supreme Court of South Dakota affirmed the denial of Patrick Burke's challenge to Butte County's assessment of his agricultural land. The court held that the County's valuation expert was competent despite lacking a certified-appraiser credential, that testimony about the absent private appraiser's conclusions was inadmissible hearsay, and that Burke failed to overcome the presumption favoring tax assessors' valuations.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Gilbertson, Chief Justice; Sabers, Justice; Amundson, Justice; Konenkamp, Justice; Gors, Acting Justice
JURISDICTION	South Dakota
DECIDED	February 6, 2002
DOCKET	No. 21976
DISPOSITION	affirmed
PROCEDURAL POSTURE	Burke appealed the Office of Hearing Examiners' affirmance of Butte County's property-tax assessment to the circuit court. After the circuit court affirmed the agency decision, Burke appealed to the Supreme Court of South Dakota.
STANDARD OF REVIEW	Under SDCL 1-26-36, the Supreme Court gives great weight to an agency's factual findings and reviews factual questions for clear error. Questions of law are reviewed de novo. The admission of expert testimony is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Patrick Burke v. Butte County

TOPICS

property tax · judicial review of agency action · expert testimony · hearsay · appellate procedure

PRACTICE AREAS

property tax | administrative law | evidence | appellate procedure

QUESTIONS PRESENTED

1. Whether John Widdoss was competent to testify as an expert on property valuation even though he was not a certified appraiser.
2. Whether Burke's testimony concerning his private appraiser's conclusions was inadmissible hearsay and entitled to no weight.
3. Whether the County's assessment was entitled to a presumption of correctness and whether Burke produced sufficient evidence to overcome that presumption.

HOLDINGS

1. A witness need not be a certified appraiser under SDCL 10-3-1.1 to testify as an expert regarding agricultural land valuation when the witness is otherwise qualified by knowledge, skill, experience, training, or education under SDCL 19-15-2.
2. A property owner may not introduce the private appraiser's valuation conclusions through the owner's second-hand testimony when the appraiser does not testify and the appraisal itself is not admitted; such testimony is inadmissible hearsay.
3. An agency may consider a property owner's testimony regarding property value but may find it unpersuasive when it is unsupported by corroborating evidence.
4. Tax officials are presumed to have acted lawfully and fairly in assessing property, and the taxpayer bears the burden of producing sufficient evidence that the assessment exceeds true and full value, lacks uniformity, or is discriminatory.

KEY QUOTATIONS

> *"There is a presumption that tax officials act in accordance with the law and not arbitrarily or unfairly when assessing property, and the taxpayer bears the burden to overcome this presumption."* (640 N.W.2d at 479)

> *"Without an appraisal showing [Director's] assessment was erroneous, [Taxpayer] has not overcome the presumption of correctness. Simply asserting that the valuation was in excess of the true and full value does not make it so."* (640 N.W.2d at 480)

FACTUAL BACKGROUND

Patrick Burke owned approximately 12,977.29 acres of agricultural rangeland in Butte County. Burke estimated the property's value at $55 per acre based on an appraisal he did not introduce, his own knowledge, and an unidentified neighboring sale, while the County assessed the land at an average of $99.19 per acre, for a total valuation of $1,287,096.30. The County relied in part on a rural land study prepared by John Widdoss, and Burke did not present the appraisal or call the appraiser to testify.

PROCEDURAL HISTORY

Butte County assessed Burke's agricultural land at $1,287,096.30. The Office of Hearing Examiners affirmed the assessment, and the circuit court affirmed the agency decision, concluding that Burke had not overcome the presumption favoring the assessment or established that the tax was unjust and inequitable. The Supreme Court affirmed both decisions.

DISPOSITION

affirmed

CASES CITED

- Butte County v. Vallery, 1999 SD 142, 602 N.W.2d 284
- Moose Lodge v. Pennington County, 1997 SD 80, 566 N.W.2d 132
- Maroney v. Aman, 1997 SD 73, 565 N.W.2d 70
- Schaffer v. Edward D. Jones & Co., 1996 SD 94, 552 N.W.2d 801
- State v. Barber, 1996 SD 96, 552 N.W.2d 817
- Foley v. State ex rel. S.D. Real Estate Comm'n, 1999 SD 101, 598 N.W.2d 217
- Poindexter v. Hand County Bd. of Equalization, 1997 SD 71, 565 N.W.2d 86
- Richter Enterprises, Inc. v. Sully County, 1997 SD 61, 563 N.W.2d 841
- Amert v. Lake County Bd. of Equalization, 1998 SD 66, 580 N.W.2d 616
- Sabhari v. Sapari, 1998 SD 35, 576 N.W.2d 886
- Matters v. Custer County, 538 N.W.2d 533 (S.D. 1995)
- Klinker v. Beach, 1996 SD 56, 547 N.W.2d 572
- Wuest ex rel. Carver v. McKennan Hosp., 2000 SD 151, 619 N.W.2d 682
- In re Estate of Klauzer, 2000 SD 7, 604 N.W.2d 474