SUPREME COURT OF FLORIDA

Deltona Corporation v. Bailey

336 So. 2d 1163 (Fla. 1976) · No. No. 49053 · Decided August 25, 1976

SUMMARY

The Florida Supreme Court reviewed the dismissal of Deltona Corporation's amended complaint seeking ad valorem real property tax relief and addressed related discovery orders. The court held that the Rose law applied to the 1974 tax year, although Deltona needed to amend its pleading under the statute; it upheld dismissal of the equal-protection and due-process counts. The court reversed the discovery ruling in part and remanded for individualized consideration of the interrogatories under the good-cause standard.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Sundberg, Justice; Overton, Chief Justice; Roberts, Justice; Hatchett, Justice; Boyd, Justice
JURISDICTION	Florida
DECIDED	August 25, 1976
DOCKET	No. 49053
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from dismissal of an amended complaint for failure to state a cause of action, together with review of orders restricting discovery. The appeal was transferred from the First District Court of Appeal to the Supreme Court of Florida because the trial court directly passed on the validity of section 195.062, Florida Statutes (1973).
STANDARD OF REVIEW	De novo review of dismissal for failure to state a cause of action; review of discovery protective orders for abuse of discretion and compliance with the good-cause requirement of Florida Rule of Civil Procedure 1.280(c).
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; precedential.
PARTIES	The Deltona Corporation v. James Bailey, Tax Assessor and Director of Tax Assessments, et al.

TOPICS

property tax · statutory interpretation · equal protection · due process · discovery dispute

PRACTICE AREAS

property taxation · constitutional law · civil procedure · appellate procedure

QUESTIONS PRESENTED

1. Whether the Rose law applied to Deltona's 1974 tax year despite the statute's prior constitutional invalidation being given prospective effect.
2. Whether Deltona adequately pleaded a cause of action under section 195.062, Florida Statutes (1973).
3. Whether Deltona adequately pleaded an equal-protection claim based on allegedly disproportionate property assessments.
4. Whether Deltona adequately pleaded a due-process claim based on allegedly insufficient assessment notice and administrative review.
5. Whether the trial court improperly postponed discovery for the period during which motions to dismiss were pending.

HOLDINGS

1. The prospective-effect ruling in Interlachen Lake Estates, Inc. v. Snyder operated from December 9, 1974, when that decision became final after rehearing; therefore, taxpayers were entitled to the benefit of section 195.062, Florida Statutes (1973), for the 1974 tax year because the tax lien arose on January 1, 1974.
2. Count I failed to state a cause of action because it alleged that Deltona had not sold more than 60 percent of the platted lots, rather than alleging that 60 percent of the lands included in each plat had not been sold as individual lots. The dismissal was nevertheless improper insofar as it was with prejudice, because Deltona was entitled to leave to amend.
3. Deltona failed to state an equal-protection claim because it did not allege that all or substantially all other property in the county was systematically assessed below the level of its property or that it was singled out and specifically discriminated against in comparison with taxpayers generally.
4. Deltona failed to state a due-process claim because its own allegations showed that it received assessment notices, timely petitioned for administrative review, received notice of a hearing, and obtained a hearing before the Board of Tax Adjustment, without alleging that the statutory notice or review procedures were not followed.
5. The pendency of unresolved motions to dismiss does not, by itself, constitute good cause under Florida Rule of Civil Procedure 1.280(c) for postponing discovery for a protracted period. On remand, the trial court had to consider each interrogatory individually and enter only such protective order as necessary to prevent oppression, undue burden, or expense.

KEY QUOTATIONS

> *“First, an act of the Legislature is presumed constitutional until invalidated by a final appellate decision.”* (336 So. 2d at 1166)

> *“Use of the word "persons" makes clear that the decision was not limited to the taxpayers involved in that particular case.”* (336 So. 2d at 1167)

> *“Since Deltona failed to plead that it is being "singled out" and specifically discriminated against vis-a-vis the other taxpayers generally in Volusia County, it has no standing to challenge its assessment on equal protection grounds, for that is the essential ingredient in Salter and Southern Bell.”* (336 So. 2d at 1168)

> *“The pendency of such unresolved motions is not sufficient "good cause shown" within the purview of Rule 1.280(c) to justify postponing discovery for the protracted period of time which elapsed in the case at bar.”* (336 So. 2d at 1170)

FACTUAL BACKGROUND

Deltona owned numerous parcels of platted real property in Volusia County and challenged its 1974 ad valorem assessments. It alleged that the tax assessor failed to apply the Rose law, which required qualifying unsold platted land to be assessed like comparable unplatted acreage, and that its property was assessed at a higher level than property generally in the county. Deltona received assessment notices, petitioned for administrative review, received notice of a hearing, and obtained a computer printout of its assessments; the Board of Tax Adjustment heard and denied its petition. Deltona also served twenty interrogatories on the tax assessor, but the trial court entered a protective order and later denied a motion to compel answers while dismissal motions remained pending.

PROCEDURAL HISTORY

Deltona filed an action seeking ad valorem real-property-tax relief and alleging violations of the Rose law, equal protection, and due process. The circuit court dismissed the original complaint with leave to amend, then dismissed the amended counts and restricted discovery. Deltona declined to amend two counts further and appealed; the appeal was transferred to the Florida Supreme Court. The Supreme Court affirmed dismissal of the equal-protection and due-process counts, reversed the dismissal with prejudice of the Rose-law count, and remanded for further pleading and individualized consideration of the interrogatories.

DISPOSITION

```
reversed_and_remanded
```

REMAND INSTRUCTIONS

Permit Deltona to amend Count I if the facts support a cause of action under the Rose law, and consider individually each interrogatory propounded to the appellees, entering only such protective order as is necessary to protect against oppression, undue burden, or expense upon a showing of good cause. The dismissals of Counts II and III were affirmed.

CASES CITED

- Interlachen Lake Estates, Inc. v. Snyder, 304 So. 2d 433 (Fla. 1973)
- Gulesian v. Dade County School Board, 281 So. 2d 325 (Fla. 1973)
- City of Naples v. Conboy, 182 So. 2d 412, 417 et seq. (Fla. 1966)
- State ex rel. Nuveen v. Greer, 88 Fla. 249, 102 So. 739 (1924)
- City of Phoenix v. Kolodziejski, 399 U.S. 204, 90 S. Ct. 1990, 26 L. Ed. 2d 523 (1970)
- Cipriano v. City of Houma, 395 U.S. 701, 89 S. Ct. 1897, 23 L. Ed. 2d 647 (1969)
- State v. Barquet, 262 So. 2d 431 (Fla. 1972)
- Franklin v. State, 257 So. 2d 21 (Fla. 1971)
- In re Estate of Caldwell, 247 So. 2d 1 (Fla. 1971)
- State ex rel. Atlantic Coast Line R.R. v. Board of Equalizers, 84 Fla. 592, 94 So. 681 (1922)
- Kippy Corp. v. Colburn, 177 So. 2d 193, 195 (Fla. 1965)
- State ex rel. Owens v. Pearson, 156 So. 2d 4, 7 (Fla. 1963)
- Dade County v. Salter, 194 So. 2d 587 (Fla. 1967)
- Southern Bell Tel. & Tel. Co. v. County of Dade, 275 So. 2d 4 (Fla. 1973)
- Walter v. Schuler, 176 So. 2d 81 (Fla. 1965)
- Cosen Investment Co. v. Overstreet, 154 Fla. 416, 17 So. 2d 788 (1944)
- Sproul v. Royal Palm Yacht & Country Club, Inc., 143 So. 2d 900 (Fla. 2d D.C.A. 1962)
- State ex rel. Munch v. Davis, 143 Fla. 236, 196 So. 491 (1940)
- Rudisill v. City of Tampa, 151 Fla. 284, 9 So. 2d 380 (1942)
- Dade County v. Dupont Plaza, Inc., 117 So. 2d 849 (Fla. 3d D.C.A.), rev'd on other grounds, 125 So. 2d 564 (Fla. 1960)
- Hollywood, Inc. v. Broward County, 90 So. 2d 47 (Fla. 1956)
- Orlando Sports Stadium, Inc. v. Sentinel Star Co., 316 So. 2d 607, 610 (Fla. 4th D.C.A. 1975)