NEW YORK COURT OF APPEALS

In the Matter of Westchester Joint Water Works v. Assessor of City of Rye

27 N.Y.3d 566, 56 N.E.3d 197 (2016) · No. No. 77 · Decided June 9, 2016

SUMMARY

The New York Court of Appeals held that a tax certiorari proceeding dismissed for an unexcused failure to comply with the mailing requirements of Real Property Tax Law § 708(3) may not be recommenced under CPLR 205(a). The Court concluded that § 708(3) comprehensively governs the consequence of noncompliance and affirmed dismissal of the proceedings concerning property located in the affected school district.

CASE DETAILS

COURT	New York Court of Appeals
WRITING FOR THE COURT	Fahey, J.; Chief Judge DiFiore; Judge Pigott; Judge Rivera; Judge Abdus-Salaam; Judge Stein; Judge Garcia
JURISDICTION	New York
DECIDED	June 9, 2016
DOCKET	No. 77
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an order of the Appellate Division, Second Department, in consolidated tax certiorari proceedings. The New York Court of Appeals granted leave to appeal as against Rye Neck Union Free School District only.
STANDARD OF REVIEW	De novo statutory interpretation
PRECEDENTIAL VALUE	Published New York Court of Appeals opinion; binding precedent in New York.
PARTIES	Westchester Joint Water Works v. Assessor of City of Rye

TOPICS

property tax · tax court procedure · statutory interpretation · municipal law · tax

PRACTICE AREAS

property taxation · municipal law · civil procedure · statutory interpretation

QUESTIONS PRESENTED

1. Whether a tax certiorari proceeding dismissed for an unexcused failure to comply with the mailing requirements of Real Property Tax Law § 708 (3) may be recommenced under CPLR 205 (a).

HOLDINGS

1. A proceeding dismissed for an unexcused failure to comply with the mailing requirements of Real Property Tax Law § 708 (3) may not be recommenced under CPLR 205 (a).

KEY QUOTATIONS

> *"We conclude that it may - 1 - - 2 - No. 77 not."* (slip op. at 1)

> *"We conclude that recommencement of a proceeding pursuant to CPLR 205 (a) is unavailable where, as here, such proceeding is dismissed for an unexcused failure to comply with the mailing requirements of RPTL 708 (3)."* (slip op. at 9)

> *"First, because RPTL 708 (3) comprehensively addresses the result where a proceeding is dismissed for failure to comply with the mailing requirements of that section, a petitioner may not reach outside of the RPTL to recommence such a proceeding."* (slip op. at 10)

FACTUAL BACKGROUND

The petitioner challenged real property tax assessments for two parcels over nine tax years. One parcel, Lot 9, was actually located within Rye Neck Union Free School District, although the petitioner believed it was within the Rye City School District. The petitioner therefore failed to timely mail the petition and notice of petition to the Rye Neck superintendent as required by Real Property Tax Law § 708 (3), and conceded that it lacked good cause for the failure. After discovering the error, the petitioner notified the District and sought its consent to a proposed settlement, but the District instead moved to intervene and dismiss.

PROCEDURAL HISTORY

Westchester Joint Water Works commenced nine tax certiorari proceedings concerning assessments for tax years 2002 through 2010. The petitioner failed to mail the petitions and notices to the superintendent of Rye Neck Union Free School District as required by Real Property Tax Law § 708 (3). Supreme Court permitted the District to intervene, dismissed the Lot 9 portions of the petitions with prejudice, and denied leave to recommence under CPLR 205 (a). The Appellate Division modified the order in other respects but affirmed dismissal of the Lot 9 claims and held that CPLR 205 (a) did not permit recommencement. The Court of Appeals affirmed insofar as appealed from, on a somewhat different rationale.

DISPOSITION

affirmed

CASES CITED

- Matter of MM 1, LLC v. LaVancher, 72 A.D.3d 1497 (4th Dep't 2010)
- Matter of Consolidated Edison Co. of N.Y., Inc. v. Assessor & Bd. of Assessment Review for Town of Pleasant Val., 82 A.D.3d 761 (2d Dep't 2011)
- Matter of Wyeth Holdings Corp. v. Assessor of Town of Orangetown, 84 A.D.3d 1104 (2d Dep't 2011)
- Matter of Cornwall Yacht Club, Inc. v. Assessor, 110 A.D.3d 1070 (2d Dep't 2013), leave denied, 23 N.Y.3d 904 (2014)
- W.T. Grant Co. v. Srogi, 52 N.Y.2d 496 (1981)
- Leader v. Maroney, Ponzini & Spencer, 97 N.Y.2d 95 (2001)

INSTRUCTIONS FOR AN AI ASSISTANT