SUPREME COURT OF VIRGINIA

Alderson v. County of Alleghany, 266 Va. 333

585 S.E.2d 795 (2003) · No. Record No. 022578 · Decided September 12, 2003

SUMMARY

The Supreme Court of Virginia considered whether Chapter 78 of the 2002 Acts of Assembly, which validated and apportioned tangible personal property taxes following Clifton Forge's reversion from an independent city to town status, violated the Virginia Constitution. The Court held that the special act was authorized by Article VII, § 2, did not violate constitutional uniformity requirements, was not impermissibly retroactive, and did not conflict with Article VII, § 7. The judgment sustaining the demurrer and dismissing the taxpayers' petition was affirmed.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Justice Donald W. Lemons; All the Justices
JURISDICTION	Virginia
DECIDED	September 12, 2003
DOCKET	Record No. 022578
DISPOSITION	affirmed
PROCEDURAL POSTURE	Taxpayers appealed from a final order of the Circuit Court of Alleghany County sustaining the County's demurrer and dismissing their petition challenging the validity of tangible personal property taxes and seeking a refund.
STANDARD OF REVIEW	The constitutionality of an enactment is reviewed as a question of law, with every General Assembly enactment receiving a presumption of validity.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Virginia; precedential.
PARTIES	J. Chris Alderson and other citizens of the former City of Clifton Forge v. County of Alleghany

TOPICS

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

PRACTICE AREAS

constitutional law | state and local taxation | property taxation | municipal law | appellate practice

QUESTIONS PRESENTED

1. Whether Chapter 78 of the 2002 Acts of Assembly was unconstitutional special or local legislation under Article IV, § 14 of the Constitution of Virginia.
2. Whether Chapter 78 violated the uniformity requirement for property taxation in Article X, § 1 of the Constitution of Virginia.
3. Whether the retroactive application of Chapter 78 violated the ex post facto prohibition or other constitutional protections.
4. Whether Chapter 78 violated Article VII, § 7 of the Constitution of Virginia concerning ordinances imposing taxes.

HOLDINGS

1. Chapter 78 did not violate Article IV, § 14 because the special act was specifically authorized by Article VII, §§ 1 and 2, which permit special legislation concerning the organization, government, and powers of local governments, including taxation and assessment.
2. Chapter 78 did not violate the constitutional requirement that taxes be uniform upon the same class of subjects within the territorial limits of the taxing authority.
3. The retroactive application of Chapter 78 was not unconstitutional because the ex post facto prohibition applies only to criminal proceedings, and the curative legislation was not arbitrary, did not disturb vested rights, did not impair contractual obligations, and did not violate due process.
4. Chapter 78 did not violate Article VII, § 7 because it did not enact a local ordinance, impose a tax, or set a tax rate; it validated existing assessments and levies and established short tax years to accommodate the change in governmental structure.

KEY QUOTATIONS

> *“When an act of assembly involves "the organization, government, and powers of any county, city, town or regional government, including such powers of legislation, taxation, and assessment" the authorization found in Art. VII, §§ 1 and 2 prevails over the restrictions found in Art. IV, § 14.”* (799)

> *“We hold that Chapter 78 does not violate the Constitution of Virginia. Accordingly, the judgment of the trial court will be affirmed.”* (800)

FACTUAL BACKGROUND

The City of Clifton Forge reverted to town status effective July 1, 2001, causing its former residents to become residents of Alleghany County and the new town. The reversion left unresolved the assessment and levy of 2001 tangible personal property taxes. The General Assembly enacted Chapter 78, validating county assessments and taxes and dividing 2001 into two short tax years. The taxpayers paid the taxes and then sought invalidation and refunds, arguing that the County lacked authority to tax their property and that Chapter 78 violated the Virginia Constitution.

PROCEDURAL HISTORY

After paying their 2001 tangible personal property taxes, the taxpayers filed suit under Code § 58.1-3984 for correction and invalidation of the taxes and a refund. The circuit court treated the amended petition as challenging the constitutionality of Chapter 78 of the 2002 Acts of Assembly, held that Chapter 78 was constitutional, sustained the County's demurrer, and dismissed the petition. The taxpayers appealed to the Supreme Court of Virginia.

DISPOSITION

affirmed

CASES CITED

- Board of Supervisors v. Telecommunications Indus., 246 Va. 472, 436 S.E.2d 442 (1993)
- R. Cross, Inc. v. City of Newport News, 217 Va. 202, 228 S.E.2d 113 (1976)
- Pulliam v. Coastal Emergency Servs., 257 Va. 1, 509 S.E.2d 307 (1999)
- Shelor Motor Co. v. Miller, 261 Va. 473, 544 S.E.2d 345 (2001)
- Fallon Florist v. City of Roanoke, 190 Va. 564, 58 S.E.2d 316 (1950)
- City of Portsmouth v. Weiss, 145 Va. 94, 133 S.E. 781 (1926)
- Pierce v. Dennis, 205 Va. 478, 138 S.E.2d 6 (1964)
- Infants v. Virginia Hous. Dev. Auth., 221 Va. 659, 272 S.E.2d 649 (1980)
- Huffman v. Commonwealth, 210 Va. 530, 172 S.E.2d 788 (1970)
- Colonial Pipeline Co. v. Commonwealth, 206 Va. 517, 145 S.E.2d 227 (1965)