COURT OF APPEALS OF THE STATE OF NEW YORK

Fleming v. Giuliani

3 N.Y.3d 544, 821 N.E.2d 959, 788 N.Y.S.2d 655 (2004) · Decided December 21, 2004

SUMMARY

The New York Court of Appeals held that payments required under New York City Charter § 1127 from nonresident City employees must be calculated using the employee's total taxable income, rather than only City employment wages. The Court concluded that the payments arise from a voluntary contractual condition of municipal employment and therefore do not constitute an unconstitutional tax. The Court also upheld dismissal of certain plaintiffs' claims under laches.

CASE DETAILS

COURT	Court of Appeals of the State of New York
WRITING FOR THE COURT	Graffeo, J.; Chief Judge Kaye; Judge G.B. Smith; Judge Ciparick; Judge Rosenblatt; Judge Read; Judge R.S. Smith
JURISDICTION	New York
DECIDED	December 21, 2004
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from an Appellate Division order granting the City's motion for summary judgment in its entirety. The Court of Appeals granted leave to appeal.
STANDARD OF REVIEW	The Court reviewed the statutory interpretation and constitutional issues as questions of law and reviewed the laches determination for abuse of discretion as a matter of law.
PRECEDENTIAL VALUE	Published precedential opinion of the New York Court of Appeals
PARTIES	Robert Fleming et al. v. Rudolph W. Giuliani, as Mayor of the City of New York, et al.

TOPICS

municipal law · income tax · contracts · constitutional law · statutory interpretation

PRACTICE AREAS

tax · municipal law · contracts · constitutional law · statutory interpretation · employment law

QUESTIONS PRESENTED

1. Whether New York City Charter § 1127 requires condition-of-employment payments by nonresident City employees to be calculated using total taxable income or only salary earned from City employment.
2. Whether calculating § 1127 payments using total taxable income constitutes an unconstitutional tax on nonresident employees.
3. Whether the claims of plaintiffs Josen and Berkowitz were barred by laches.
4. Whether White's certification agreeing to conform to Chapter 49 of the City Charter constituted an agreement to be subject to § 1127.

HOLDINGS

1. Section 1127 requires condition-of-employment payments to be calculated using the employee's entire taxable income, as reflected in federal adjusted gross income and subject to applicable deductions, exemptions, and modifications, rather than only the employee's City salary.
2. Payments made under a valid § 1127 agreement are contractual payments voluntarily undertaken as a condition of municipal employment, not an unconstitutional tax imposed on nonresidents.
3. The Appellate Division did not abuse its discretion as a matter of law in concluding that Josen's and Berkowitz's claims were barred by laches.
4. White's certification that he had read and would conform to Chapter 49 of the City Charter constituted his agreement to have § 1127 applied to his income.

KEY QUOTATIONS

> *"Based on the provisions of section 1127, as well as its underlying purpose, we conclude that the City is entitled to use total taxable income in determining the payments due and that such application is constitutional."* (3 N.Y.3d at 547)

> *"We established in Legum that any payments made pursuant to a section 1127 agreement arise from voluntary contractual employment arrangements."* (3 N.Y.3d at 552)

> *"Accordingly, the order of the Appellate Division should be affirmed, with costs."* (3 N.Y.3d at 553)

FACTUAL BACKGROUND

Plaintiffs were thirteen physicians employed part-time as District Surgeons by the New York City Police Department, all residing outside New York City. Some had private-practice and other income in addition to their City salaries. The City withheld payments under New York City Charter § 1127, which requires nonresident City employees who sign the required agreement to make payments equivalent to the City personal income tax, and calculated those payments using total taxable income rather than only City wages.

PROCEDURAL HISTORY

Thirteen nonresident physicians employed part-time by the New York City Police Department challenged deductions made under New York City Charter § 1127. Supreme Court denied plaintiffs' summary-judgment motion, granted the City's cross-motion in part, and found that § 1127 payments were calculated on total income for the ten plaintiffs with signed agreements and White, while factual issues remained concerning Josen and Berkowitz. The Appellate Division granted the City's motion in full, holding that § 1127 applied to total income and that Josen's and Berkowitz's claims were barred by laches. The Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Matter of Legum v. Goldin, 55 N.Y.2d 104 (1982)
- Matter of Ganley v. Giuliani, 94 N.Y.2d 207 (1999)
- Matter of City of New York v. Lieutenants Benevolent Assn., 285 A.D.2d 329 (1st Dep't 2001)
- Matter of Zelinsky v. Tax Appeals Trib. of State of N.Y., 1 N.Y.3d 85 (2003)
- Matter of Vickery v. Village of Saugerties, 64 N.Y.2d 1161 (1985)
- Amsterdam Sav. Bank v. City View Mgt. Corp., 45 N.Y.2d 854 (1978)