SUPREME COURT OF ARKANSAS

Wilkins & Associates, Inc. v. Vimy Ridge Municipal Water Improvement District No. 139, 373 Ark. 580

285 S.W.3d 193 (2008) · No. No. 07-690 · Decided May 29, 2008

SUMMARY

The Arkansas Supreme Court considered whether a foreclosure action for unpaid municipal improvement district assessments was barred by the applicable three-year statute of limitations. It held that the special improvement taxes became delinquent under the specific statute governing improvement districts, rather than under the general tax-delinquency provisions, and that the foreclosure complaint was untimely. The court reversed the circuit court's summary judgment in favor of Vimy Ridge Municipal Water Improvement District No. 139.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Jim Gunter
JURISDICTION	Arkansas
DECIDED	May 29, 2008
DOCKET	No. 07-690
DISPOSITION	reversed
PROCEDURAL POSTURE	Appeal from an order of the Pulaski County Circuit Court granting summary judgment to Vimy Ridge in a foreclosure action for unpaid municipal improvement district assessments.
STANDARD OF REVIEW	The court reviews a circuit court's decision in a tax case de novo, although it will not disturb factual findings unless they are clearly erroneous. Issues of statutory construction are reviewed de novo.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential
PARTIES	Wilkins & Associates, Inc. v. Vimy Ridge Municipal Water Improvement District No. 139, The Bank of New York Trust Company, N.A.

TOPICS

municipal law · tax statute of limitations · statutory interpretation · appellate procedure · standard of review

PRACTICE AREAS

municipal law · tax law · statutory interpretation · appellate procedure

QUESTIONS PRESENTED

1. Whether the foreclosure action for the 2001 municipal improvement district assessment was barred by the applicable three-year statute of limitations.
2. Whether the general-tax delinquency provisions in Ark. Code Ann. § 26-36-201 applied to the special taxes of the municipal improvement district.

HOLDINGS

1. The general-tax provisions of Title 26 do not apply to municipal improvement district special taxes unless the district specifically adopts the applicable installment scheme by ordinance; absent such adoption, the specific delinquency provision in Ark. Code Ann. § 14-86-1204 governs.
2. Vimy Ridge's October 1, 2004 foreclosure complaint was barred by the three-year statute of limitations because the 2001 assessment became delinquent more than three years before the complaint was filed.

KEY QUOTATIONS

> *"Without such adoption, and without specifying the date the special taxes are delinquent, the specific statute dealing with when special improvement taxes become delinquent applies (§ 14-86-1204), and the delinquency date is ninety days after the special taxes are due and payable."* (285 S.W.3d at 195)

FACTUAL BACKGROUND

Vimy Ridge filed a foreclosure action on October 1, 2004, seeking unpaid municipal improvement district assessments for 2001, 2002, and 2003. Wilkins argued that the 2001 assessment became delinquent ninety days after it was due and payable and that the three-year limitations period therefore expired before the complaint was filed. The circuit court applied the general-tax delinquency provisions and ruled that the action was timely.

PROCEDURAL HISTORY

Vimy Ridge filed a foreclosure complaint against Wilkins and others for nonpayment of 2001, 2002, and 2003 improvement-district assessments. The circuit court held that the assessments were not delinquent until after October 10, 2004, concluded that the foreclosure action was timely, and granted Vimy Ridge summary judgment. Wilkins appealed.

DISPOSITION

reversed

CASES CITED

- Vimy Ridge Mun. Water Improvement Dist. No. 139 of Little Rock v. Ryles, 373 Ark. 366, 284 S.W.3d 70 (2008)

- City of Maumelle v. Jeffrey Sand Co., 353 Ark. 686, 120 S.W.3d 55 (2003)
- Barclay v. First Paris Holding Co., 344 Ark. 711, 42 S.W.3d 496 (2001)
- Quapaw Central Business Improvement Dist. v. Bond-Kinman, Inc., 315 Ark. 703, 870 S.W.2d 390 (1994)

Retrieved from lawtools.ai · https://lawtools.ai/cases/state/arkansas-supreme-court-of-arkansas/2008/wilkins-and-associates-inc-v-vimy-ridge-municipal-water-glg9ra2o