SUPREME COURT OF NEW MEXICO

Jicarilla Apache Nation v. Rodarte

103 P.3d 554, 136 N.M. 630 (N.M. 2004) · No. No. 28,128 · Decided September 3, 2004

SUMMARY

The Supreme Court of New Mexico upheld the reclassification of property owned by the Jicarilla Apache Nation from agricultural to miscellaneous non-residential for property-tax purposes. The court held that the county assessor and valuation protests board reasonably relied on the Taxation and Revenue Department’s determination that elk were not livestock under the Property Tax Code. It also upheld the board’s conclusion that the property’s conservation agreement did not establish a qualifying primary agricultural use.

CASE DETAILS

COURT	Supreme Court of New Mexico
WRITING FOR THE COURT	Chavez, Justice; Edward L. Chávez, Justice; Petra Jimenez Maes, Chief Justice; Patricio M. Serna, Justice; Pamela B. Minzner, Justice; Roderick T. Kennedy, Judge sitting by designation
JURISDICTION	New Mexico
DECIDED	September 3, 2004
DOCKET	No. 28,128
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Rio Arriba County Assessor appealed the New Mexico Court of Appeals' reversal of a county valuation protests board decision upholding the reclassification of the Lodge at Chama property from agricultural to miscellaneous non-residential. The New Mexico Supreme Court granted review and reversed the Court of Appeals.
STANDARD OF REVIEW	Under NMSA 1978, Section 39-3-1.1(D), an agency decision may be reversed if the agency acted fraudulently, arbitrarily, or capriciously; the decision was unsupported by substantial evidence; or the agency failed to act in accordance with law. Factual findings are reviewed for substantial evidence and legal conclusions de novo, subject to deference to reasonable agency interpretations involving agency expertise or policies within the agency's statutory function.
PRECEDENTIAL VALUE	published precedential opinion

PARTIES	Arthur Rodarte, in his official capacity as Rio Arriba County Assessor v. Jicarilla Apache Nation

TOPICS

property tax · tax · administrative law · statutory interpretation · indian affairs

PRACTICE AREAS

property taxation · administrative law · statutory interpretation · tribal law

QUESTIONS PRESENTED

1. Whether the assessor and valuation protests board properly treated elk as not constituting livestock under the Property Tax Code for purposes of agricultural property classification.
2. Whether the Division of Taxation and Revenue's determination that elk were not livestock was entitled to deference.
3. Whether the Board properly reconciled the statutory presumption favoring continued agricultural classification with the statutory presumption that the assessor's classification is correct.
4. Whether the USDA conservation agreement qualified as a soil conservation agreement under NMSA 1978, Section 7-36-20(B).
5. Whether the existence of the conservation agreement alone established that the property was primarily used for agricultural purposes.

HOLDINGS

1. The 1981 amendment adding classification to NMSA 1978, Section 7-38-6, statutorily overruled Black v. Bernalillo County Valuation Protests Board to the extent Black held that the assessor and Board lacked the statutory presumption of correctness in determining entitlement to agricultural valuation. The Board reasonably reconciled the competing presumptions by requiring the assessor initially to show that the prior classification was changed or erroneous, after which the assessor received the presumption of correctness.
2. When property has multiple uses, a comparison of income from agricultural and nonagricultural uses may reasonably serve as a proxy for determining which use is primary, and the regulatory presumption favoring the higher-income use is rebuttable rather than conclusive.
3. The Board properly deferred to the Division's reasonable categorical determination that elk are not livestock under the Property Tax Code. The private elk herd was not livestock despite some indicia of domestication, and the public elk herd was also not livestock.
4. The Lodge's USDA agreement was a valid soil conservation agreement under NMSA 1978, Section 7-36-20(B), even though it also served the purpose of developing and maintaining elk habitat.
5. A valid soil conservation agreement establishes an agricultural-use element but does not, by itself, establish that agricultural use is the primary use of the property. The Board properly found that

commercial hunting, rather than compliance with the conservation agreement, was the primary use of the uplands.

KEY QUOTATIONS

> *"For that reason, we hold that the Legislature statutorily overruled Black to the extent it held that the Assessor and Board are not entitled to the statutory presumption of correctness under Section 7-38-6."* (¶ 14)

> *"Although we review de novo the Board's legal conclusion that elk are not livestock under the Property Tax Code, that de novo review is limited by the deference courts should give to these kinds of legal determinations made by administrative agencies."* (¶ 25)

> *"Conversely, property which is primarily used for non-agricultural purposes but which incidentally meets the requirements for compensation pursuant to a valid soil conservation agreement is not "land used primarily for agricultural purposes" under Section 7-36-20(A)."* (¶ 37)

> *"None, however, are sufficient conditions that by themselves definitively prove that the land meets all of the qualifications for the agricultural exemption."* (¶ 39)

FACTUAL BACKGROUND

The Jicarilla Apache Nation owned the 32,075.80-acre Lodge at Chama, a recreational retreat that maintained private elk herds in two enclosed game parks and provided habitat for a wild public elk herd. The Lodge earned substantial income from hunting packages and related recreational activities, while timber production and cattle grazing generated comparatively little income. The assessor reclassified most of the property from agricultural to miscellaneous non-residential after concluding that elk were not livestock under the Property Tax Code and that the property's primary use was recreational. The Lodge also participated in a USDA Environmental Quality Incentives Program conservation agreement involving fencing, irrigation, grazing management, and soil-cover measures.

PROCEDURAL HISTORY

The County Valuation Protests Board upheld the assessor's reclassification and increased assessment of the property. The district court certified the case to the Court of Appeals as involving a substantial public interest, and the Court of Appeals reversed the Board, holding that the private elk herd qualified as livestock and that the federal conservation agreement established agricultural use. The Supreme Court reversed the Court of Appeals, affirmed the Board's decision, and remanded for proceedings consistent with its opinion.

DISPOSITION

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reversed_and_remanded
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REMAND INSTRUCTIONS

The Court of Appeals' decision is reversed, the Board's decision and order are affirmed, and the case is remanded for proceedings consistent with the opinion.

CASES CITED

- County of Bernalillo v. Ambell, 94 N.M. 395, 611 P.2d 218 (1980)
- Alexander v. Anderson, 1999-NMCA-021, 126 N.M. 632, 973 P.2d 884
- Black v. Bernalillo County Valuation Protests Board, 95 N.M. 136, 619 P.2d 581 (Ct. App. 1980)
- State ex rel. Quintana v. Schnedar, 115 N.M. 573, 855 P.2d 562 (1993)
- Rio Grande Chapter of the Sierra Club v. New Mexico Mining Commission, 2003-NMSC-005, 133 N.M. 97, 61 P.3d 806
- TPL, Inc. v. New Mexico Taxation & Revenue Department, 2003-NMSC-007, 133 N.M. 447, 64 P.3d 474
- Rauscher, Pierce, Refsnes, Inc. v. Taxation & Revenue Department, 2002-NMSC-013, 132 N.M. 226, 46 P.3d 687
- State v. Attaway, 117 N.M. 141, 870 P.2d 103 (1994)
- Chavez v. Mountain States Constructors, 1996-NMSC-070, 122 N.M. 579, 929 P.2d 971
- Morningstar Water Users v. New Mexico Public Utility Commission, 120 N.M. 579, 904 P.2d 28 (1995)
- Tesoro Alaska Petroleum Co. v. Kenai Pipe Line Co., 746 P.2d 896 (Alaska 1987)
- Zwaagstra v. DelCurto, 114 N.M. 263, 837 P.2d 457 (Ct. App. 1992)
- Quantum Corp. v. Taxation & Revenue Department, 1998-NMCA-050, 125 N.M. 49, 956 P.2d 848
- City of Albuquerque v. Public Regulatory Commission, 2003-NMSC-028, 134 N.M. 472, 79 P.3d 297