SUPREME COURT OF TENNESSEE

Home Builders Association of Middle Tennessee v. Williamson County

304 S.W.3d 812 (Tenn. 2010) · No. M2008-00835-SC-R11-CV · Decided February 25, 2010

SUMMARY

The Tennessee Supreme Court interpreted the Williamson County Adequate Facilities Tax Act, which imposes a privilege tax on new construction. The Court held that once the County collected the tax based on projected square footage at the time of building-permit application, the Act prohibited later collection of additional tax based on the completed project's actual square footage. The Court reversed the Court of Appeals, vacated the trial court's summary judgment for the County, granted summary judgment for the builders, and remanded.

CASE DETAILS

COURT	Supreme Court of Tennessee
WRITING FOR THE COURT	Sharon G. Lee; Janice M. Holder; Cornelia A. Clark; William C. Koch, Jr.; Gary R. Wade
JURISDICTION	Tennessee
DECIDED	February 25, 2010
DOCKET	M2008-00835-SC-R11-CV
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The homebuilders appealed by permission from the Tennessee Court of Appeals after the trial court granted summary judgment to Williamson County in a declaratory judgment action concerning the County's authority to collect additional adequate-facilities privilege taxes.
STANDARD OF REVIEW	Statutory interpretation and summary judgment are reviewed de novo with no presumption of correctness.
PRECEDENTIAL VALUE	Published Tennessee Supreme Court opinion; binding precedent in Tennessee.
PARTIES	Home Builders Association of Middle Tennessee v. Williamson County, Williamson County Board of Adjustments and Appeals

TOPICS

statutory interpretation | tax | state and local tax | tax collection | appellate procedure

PRACTICE AREAS

tax | state and local tax | municipal law | statutory interpretation | appellate procedure

QUESTIONS PRESENTED

1. Whether the Williamson County Adequate Facilities Tax Act authorizes the County to collect additional privilege taxes after construction based on the difference between projected and actual completed square footage.
2. Whether the County's statutory audit and tax-collection authority permits it to collect amounts not assessed and payable under the Act.

HOLDINGS

1. The Williamson County Adequate Facilities Tax Act prohibits the County from later collecting additional privilege taxes based on the actual square footage of the completed project after the privilege tax has been collected based on projected square footage.
2. The County's general authority to audit and settle accounts does not authorize collection of additional amounts that are not taxes due and payable under the Act.

KEY QUOTATIONS

> *"We hold that after the County collects the privilege tax based upon the projected square footage, the language of the Act prohibits the County from later collecting additional privilege taxes based upon the actual square footage of the completed project."* (304 S.W.3d at 812)

> *"We further believe that the legislature's use of the word "shall" at section 8 manifests an intent that the collection of the tax at the time of application for the building permit imposes a mandatory duty upon the County as to the time of collection."* (304 S.W.3d at 819)

> *"Because we are without authority to rewrite the Act, if the County seeks authority to collect the tax at a later date, its recourse lies not with the judiciary, but with the legislature."* (304 S.W.3d at 822)

FACTUAL BACKGROUND

Williamson County imposed a privilege tax on new construction under the Williamson County Adequate Facilities Tax Act. The County collected the tax before construction based on the projected square footage stated in building-permit applications or privilege-tax forms. After reviewing payments made from 1998 through 2003, the County sought additional taxes from builders when completed residences exceeded the projected square footage, often months or years after construction and sale.

PROCEDURAL HISTORY

The builders filed a declaratory judgment action challenging the County's attempt to collect additional privilege taxes based on the difference between projected and actual completed square footage. The Williamson County Chancery Court granted summary judgment for the County, and the Court of Appeals affirmed. The Tennessee Supreme Court granted permission to appeal, reversed the Court of Appeals, vacated the trial court's judgment, granted summary judgment to the builders, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court's grant of summary judgment to Williamson County is vacated, summary judgment is granted to the builders, and the cause is remanded for further proceedings as necessary.

CASES CITED

- Chattanooga-Hamilton County Hosp. Auth. v. Bradley County, 249 S.W.3d 361, 365 (Tenn. 2008)
- Hannan v. Alltel Publ'g Co., 270 S.W.3d 1, 5 (Tenn. 2008)
- Byrd v. Hall, 847 S.W.2d 208, 214 (Tenn. 1993)
- Martin v. Norfolk S. Ry. Co., 271 S.W.3d 76, 84 (Tenn. 2008)
- Blair v. W. Town Mall, 130 S.W.3d 761, 763 (Tenn. 2004)
- Walker v. Sunrise Pontiac-GMC Truck, Inc., 249 S.W.3d 301, 309 (Tenn. 2008)
- Curtis v. G.E. Capital Modular Space, 155 S.W.3d 877, 881 (Tenn. 2005)
- Lanier v. Rains, 229 S.W.3d 656, 661 (Tenn. 2007)
- State v. Flemming, 19 S.W.3d 195, 197 (Tenn. 2000)
- In re Adoption of A.M.H., 215 S.W.3d 793, 808 (Tenn. 2007)
- State v. Sherman, 266 S.W.3d 395, 401 (Tenn. 2008)
- Memphis Peabody Corp. v. MacFarland, 365 S.W.2d 40, 42-43 (Tenn. 1963)
- Commercial Standard Ins. Co. v. Hixson, 133 S.W.2d 493 (Tenn. 1939)
- Covington Pike Toyota, Inc. v. Cardwell, 829 S.W.2d 132, 135 (Tenn. 1992)
- Gray v. Cullom Mach., Tool & Die, Inc., 152 S.W.3d 439, 446 (Tenn. 2004)
- Stubbs v. State, 393 S.W.2d 150, 154 (Tenn. 1965)
- Sanford Realty Co. v. City of Knoxville, 110 S.W.2d 325, 327 (Tenn. 1937)
- Presley v. Bennett, 860 S.W.2d 857, 860 (Tenn. 1993)
- Trapp v. McCormick, 130 S.W.2d 122, 125 (Tenn. 1939)
- Garrett v. Tenn. Dep't of Safety, 717 S.W.2d 290, 291 (Tenn. 1986)
- Stiner v. Powells Valley Hardware Co., 75 S.W.2d 406, 407-08 (Tenn. 1934)
- County of Du Page v. RWS Dev., Inc., 643 N.E.2d 242 (Ill. App. Ct. 1994)
- Neuhoff Packing Co. v. City of Chattanooga, 234 S.W.2d 824, 825 (Tenn. 1950)

- Int'l Trading-Stamp Corp. v. City of Memphis, 47 S.W. 136 (Tenn. 1898)
- Maury County ex rel. Maury Reg'l Hosp. v. Tenn. State Bd. of Equalization, 117 S.W.3d 779, 785 (Tenn. Ct. App. 2003)
- S. Ry. Co. v. Hamblen County, 92 S.W. 238, 239 (Tenn. 1906)
- Gleaves v. Checker Cab Transit Corp., 15 S.W.3d 799, 803 (Tenn. 2000)
- BellSouth Telecomms. v. Greer, 972 S.W.2d 663, 673 (Tenn. Ct. App. 1997)