SUPREME COURT OF RHODE ISLAND

Weybosset Hill Investments, LLC v. Rossi

896 A.2d 728 (R.I. 2006) · Decided April 12, 2006

SUMMARY

The Rhode Island Supreme Court affirmed the denial of Weybosset Hill Investments, LLC's motion for attorneys' fees and costs following its successful challenge to municipal property tax assessments. The court held that the underlying action arose from the assessment, rather than the collection, of municipal taxes and therefore did not satisfy the statutory requirements of Rhode Island General Laws § 44-7-12(b). The court also declined to award fees under its inherent authority to fashion remedies in the interest of justice.

CASE DETAILS

COURT	Supreme Court of Rhode Island
JURISDICTION	Rhode Island
DECIDED	April 12, 2006
DISPOSITION	affirmed
PROCEDURAL POSTURE	Weybosset appealed from the Superior Court's denial of its motion for attorneys' fees and costs following its successful challenge to municipal property-tax assessments.
STANDARD OF REVIEW	Prima facie eligibility for attorneys' fees under the statute, including questions of statutory interpretation, is reviewed de novo. Whether to award fees to an otherwise eligible party remains discretionary under the statute.
PRECEDENTIAL VALUE	published opinion; precedential
PARTIES	Weybosset Hill Investments, LLC v. Rossi

TOPICS

property tax · tax collection · state and local tax · statutory interpretation · appellate procedure

PRACTICE AREAS

state and local taxation · municipal law · appellate procedure · attorneys' fees · statutory interpretation

QUESTIONS PRESENTED

1. Whether Weybosset was eligible for attorneys' fees under G.L. 1956 § 44-7-12(b) when its underlying action challenged the assessment of municipal taxes but did not involve subsequent collection efforts.
2. Whether the Supreme Court should exercise its inherent power to award attorneys' fees in the interest of justice.
3. Whether the losing party had raised justiciable issues in the underlying litigation.

HOLDINGS

1. Weybosset was not entitled to attorneys' fees under § 44-7-12(b) because its underlying action arose from the assessment of municipal taxes, not from the collection of a municipal tax levy.
2. The statutory requirement that the losing party have raised no justiciable issue was not satisfied because the defendant raised at least two justiciable issues concerning standing and whether a challenge to a tax assessment was assignable.
3. The court declined to award attorneys' fees under its inherent power because the circumstances did not warrant such an award.

KEY QUOTATIONS

> *"It is clear from this statutory language that there are three requirements which must have been met before Weybosset could properly seek attorneys' fees under § 44-7-12(b)"* (896 A.2d at 729)

> *"Because there is no evidence in the present case that Weybosset was subjected to the "municipal thuggery" that confronted the plaintiffs in both the Union Station and Capital Properties cases, we perceive no principled basis for extending the meaning of the word "collection" or the reach of § 44-7-12(b) to encompass the facts of this case."* (896 A.2d at 730)

FACTUAL BACKGROUND

Weybosset purchased real property from Blue Cross and Blue Shield of Rhode Island and challenged four years of municipal tax assessments. The property was found to have been overassessed, and Weybosset received damages on the merits. The municipality did not send tax bills, tax-sale notices, or take comparable follow-up collection actions based on the erroneous assessments.

PROCEDURAL HISTORY

Weybosset challenged four years of tax assessments on property purchased from Blue Cross and Blue Shield of Rhode Island and prevailed on the merits, obtaining damages after the Superior Court found the property overassessed. After the merits appeal was resolved, Weybosset sought attorneys' fees and costs under G.L. 1956 § 44-7-12(b) and the Supreme Court's inherent remedial power. The Superior Court denied the motion, and the Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Weybosset Hill Investments, LLC v. Rossi, 857 A.2d 231 (R.I. 2004)
- Capital Properties, Inc. v. City of Providence, 843 A.2d 456, 461 (R.I. 2004)
- Union Station Associates v. Rossi, 862 A.2d 185, 196 (R.I. 2004)
- Greensleeves, Inc. v. Smiley, 754 A.2d 102, 103 (R.I. 2000) (mem.)
- Bucci v. Anthony, 667 A.2d 1254, 1256 (R.I. 1995)
- Vincent v. Musone, 574 A.2d 1234, 1235 (R.I. 1990)
- Carnevale v. Dupee, 783 A.2d 404, 408 (R.I. 2001)

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