MICHIGAN SUPREME COURT

Liem Ngo v. Department of Treasury

498 Mich. 1 (Mich. 2015) · No. No. 150294 · Decided July 9, 2015

SUMMARY

The Michigan Supreme Court held that the State Real Estate Transfer Tax Act exemption for a principal residence applies when the property's state equalized value at conveyance is no greater than its value at acquisition and the property was sold in an arm's-length transaction for fair market value. The Court rejected the Court of Appeals' interpretation requiring the sale price to equal exactly twice the property's state equalized value, reversed, and remanded the consolidated cases to the Tax Tribunal.

CASE DETAILS

COURT	Michigan Supreme Court
WRITING FOR THE COURT	Per curiam; Robert P. Young, Jr.; Stephen J. Markman; Mary Beth Kelly; Brian K. Zahra; Bridget M. McCormack; David F. Viviano; Richard H. Bernstein
JURISDICTION	Michigan
DECIDED	July 9, 2015
DOCKET	No. 150294
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petitioners sought refunds of Michigan real estate transfer taxes after selling their principal residences in a declining real estate market. The Michigan Tax Tribunal awarded refunds, the Michigan Court of Appeals reversed, and the Michigan Supreme Court reversed the Court of Appeals and remanded.
STANDARD OF REVIEW	De novo review of questions of statutory interpretation.
PRECEDENTIAL VALUE	Published Michigan Supreme Court opinion; binding precedent in Michigan.
PARTIES	James Gardner and Susan Gardner, Liem Ngo and Alecia Ngo, John Maselli and Jennifer Maselli v. Department of Treasury

TOPICS

transfer tax · tax refunds · property tax · statutory interpretation · tax court procedure

PRACTICE AREAS

state and local taxation · real estate taxation · statutory interpretation · administrative law

QUESTIONS PRESENTED

1. Whether MCL 207.526(u) requires a principal residence to be sold for exactly twice its state equalized value in order to qualify for the real estate transfer tax exemption.
2. Whether "true cash value" in the penalty clause of MCL 207.526(u) means precisely twice the property's SEV or instead means fair market value determined by an arm's-length transaction.
3. Whether the petitioners were entitled to refunds of the real estate transfer tax they paid.

HOLDINGS

1. A taxpayer qualifies for the MCL 207.526(u) real estate transfer tax exemption by showing that the property was the seller's principal residence, that its SEV at conveyance was equal to or less than its SEV at acquisition, and that the property was sold for its true cash value in an arm's-length transaction. The statute does not require the sale price to equal exactly twice the property's SEV.
2. The petitioners were entitled to refunds because each satisfied the statutory exemption requirements and the sales were arm's-length transactions for true cash value.

KEY QUOTATIONS

> *"To be entitled to the transfer tax exemption under MCL 207.526(u), the petitioning taxpayer need only demonstrate that the property at issue is the principal residence of the seller or transferor, that it has an SEV at the time of conveyance that is less than or equal to the SEV at the time of acquisition, and that it was sold or transferred for a price at which a willing buyer and a willing seller would arrive through arm's-length negotiation."* (498 Mich. at 10-11)

> *"By this definition, then, the only instance in which the penalty clause would apply to preclude an exemption is when a seller or transferor sold the property for an amount other than an amount at which a willing buyer and a willing seller would have arrived through arm's-length negotiation."* (498 Mich. at 9)

FACTUAL BACKGROUND

The petitioners sold their principal residences when each property's state equalized value was lower than it had been when the property was acquired. They paid Michigan real estate transfer tax and sought refunds under MCL 207.526(u). The sales were treated as arm's-length transactions, and the Tax Tribunal found that the properties had been sold for their true cash value.

PROCEDURAL HISTORY

The Department of Treasury denied each petitioner's refund request. The Michigan Tax Tribunal held that the sales qualified for the exemption under MCL 207.526(u) and awarded refunds. The Court of Appeals consolidated the appeals and reversed in a split published opinion, holding that the exemption required the sale price to equal exactly twice the property's SEV. The Supreme Court reversed and remanded for further proceedings, including reinstatement of the Tax Tribunal's judgments.

DISPOSITION

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reversed_and_remanded
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REMAND INSTRUCTIONS

Remand to the Michigan Tax Tribunal for further proceedings consistent with the opinion, including reinstatement of its judgments in favor of petitioners. The Tribunal was directed to revisit the Gardner refund calculation to ensure that the refund equals the amount of transfer tax initially paid and is calculated on the value of the property being transferred.

CASES CITED

- Gardner v. Treasury Department, 306 Mich. App. 546, 858 N.W.2d 76 (2014)
- Whitman v. City of Burton, 493 Mich. 303, 311, 831 N.W.2d 223 (2013)
- Sun Valley Foods Co. v. Ward, 460 Mich. 230, 236-37, 596 N.W.2d 119 (1999)
- CAF Investment Co. v. State Tax Commission, 392 Mich. 442, 450 & n.2, 221 N.W.2d 588 (1974)
- Moran v. Grosse Pointe Township, 317 Mich. 248, 254, 26 N.W.2d 763 (1947)
- Detroit Lions, Inc. v. Dearborn, 302 Mich. App. 676, 696, 840 N.W.2d 168 (2013)
- Huron Ridge LP v. Ypsilanti Township, 275 Mich. App. 23, 28, 737 N.W.2d 187 (2007)
