SUPREME COURT OF ARKANSAS

Dollarway Patrons for Better Schools v. Dollarway School District, 374 Ark. 92

286 S.W.3d 123 (2008) · No. No. 08-33 · Decided June 26, 2008

SUMMARY

The Supreme Court of Arkansas held that the plaintiffs attempted to state a claim for illegal exaction rather than an untimely election contest. The court reversed the dismissal under Arkansas Rule of Civil Procedure 12(b)(1) and remanded for consideration of whether the complaint stated a claim under Rule 12(b)(6), including whether misrepresentations by the school district could render the tax election void. The court did not decide the plaintiffs' fiduciary-duty, constructive-fraud, or unclean-hands arguments.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Jim Hannah, Chief Justice; Donald L. Corbin, Justice; Glaze, Justice, not participating
JURISDICTION	Arkansas
DECIDED	June 26, 2008
DOCKET	No. 08-33
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the Jefferson County Circuit Court's dismissal of a complaint as an untimely election contest under Ark. Code Ann. § 6-14-116. The appellee also argued under Ark. R. Civ. P. 12(b)(6) that the complaint failed to state an illegal-exaction claim.
STANDARD OF REVIEW	A motion-to-dismiss decision is reviewed by accepting the alleged facts as true and liberally construing them in the plaintiff's favor; legal issues are reviewed de novo.
PRECEDENTIAL VALUE	Published Arkansas Supreme Court opinion; precedential
PARTIES	Dollarway Patrons for Better Schools, Felix Smart, Debbie Jenkins, Jamie Barajas, Mary Pringos v. Dollarway School District, Dollarway Board of Education, Mike Holcomb, County Judge, et al.

TOPICS

election law · election contests · motions to dismiss · declaratory judgment · injunctions

PRACTICE AREAS

election law · civil procedure · remedies · taxation

QUESTIONS PRESENTED

1. Whether the complaint was an election contest subject to the twenty-day limitation and procedures in Ark. Code Ann. § 6-14-116.
2. Whether the complaint attempted to state an illegal-exaction claim based on an allegation that the election was illegally held and therefore a nullity.
3. Whether the law governing voiding elections should be extended to representations made by a taxing authority concerning the tax increase it sought.
4. Whether the appellate court should decide claims based on breach of fiduciary duty, constructive fraud, or unclean hands when those issues were not decided below.

HOLDINGS

1. The complaint was not an election contest because DPBS did not challenge the vote count, seek a recount, or seek to replace a certified winner; instead, it alleged that there was no authority to hold the election at all.
2. DPBS attempted to plead a cause of action in illegal exaction, and the circuit court erred in dismissing the complaint under Rule 12(b)(1) as an untimely election contest.
3. The issue was unresolved on appeal; the case was remanded for the circuit court to decide whether Arkansas law should be extended beyond the categories recognized in City of Rector and, if so, whether the alleged conduct stated a claim to void the election and make the tax illegal.
4. The court declined to decide those theories because they were not decided by the circuit court and would not be addressed for the first time on appeal.

KEY QUOTATIONS

> *"A cause of action alleging that an election is a nullity because the election was illegally held is not an election contest under section 7-5-801 or under school elections section 6-14-116."* (at 127)

> *"Therefore, DPBS attempted to plead a cause of action in illegal exaction, and the circuit court erred in dismissing the case under Ark. R. Civ. P. 12(b)(1) as an untimely election contest."* (at 127)

> *"Both forms of election contest concern counting the votes, and both seek to invalidate an election based on the results of the election."* (at 126)

FACTUAL BACKGROUND

In 2006, the Altheimer School District was consolidated into the Dollarway School District, creating a district with differing existing millage rates. The School District sought a special election to increase the rate to 42.3 mills, and the measure passed 399 to 378. DPBS alleged that the School District circulated information stating that the tax increases would be approximately half the amounts reflected in a financial-adviser table available to the School District, and argued that the misrepresentations made the election void and the resulting tax an illegal exaction.

PROCEDURAL HISTORY

After a special election approving an increase in school-district millage, DPBS filed a complaint seeking to invalidate the election and prevent collection of the resulting taxes, alleging that the School District misrepresented the tax increase before the election. The circuit court treated the action as an election contest and dismissed it under Ark. R. Civ. P. 12(b)(1) because it was filed more than twenty days after certification. The Supreme Court of Arkansas reversed and remanded for consideration under Rule 12(b)(6) and for a determination whether the alleged conduct stated an illegal-exaction claim.

DISPOSITION

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reversed_and_remanded
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REMAND INSTRUCTIONS

Consider the complaint under Ark. R. Civ. P. 12(b)(6) and determine whether DPBS stated a cause of action in illegal exaction. The circuit court was also directed to decide whether the law governing voiding elections should be extended beyond the categories identified in City of Rector and, if so, whether the alleged conduct stated a claim to void the election and make the tax illegal.

CASES CITED

- Bright v. Zega, 358 Ark. 82, 186 S.W.3d 201 (2004)
- R.K. Enters., LLC v. Pro-Comp Mgmt., Inc., 372 Ark. 199, 272 S.W.3d 85 (2008)
- Douglas v. Williams, 240 Ark. 933, 405 S.W.2d 259 (1966)
- Adams v. Dixie Sch. Dist. No. 7, 264 Ark. 178, 570 S.W.2d 603 (1978)
- King v. Davis, 324 Ark. 253, 920 S.W.2d 488 (1996)
- Phillips v. Earngey, 321 Ark. 476, 902 S.W.2d 782 (1995)
- Rubens v. Hodges, 310 Ark. 451, 837 S.W.2d 465 (1992)
- Files v. Hill, 268 Ark. 106, 594 S.W.2d 836 (1980)
- Spires v. Election Comm'n of Union County, 302 Ark. 407, 790 S.W.2d 167 (1990)
- Binns v. Heck, 322 Ark. 277, 908 S.W.2d 328 (1995)
- Patton v. Coates, 41 Ark. 111 (1883)
- Phillips v. Rothrock, 194 Ark. 945, 110 S.W.2d 26 (1937)
- Arkansas-Missouri Power Corp. v. City of Rector, 214 Ark. 649, 217 S.W.2d 335 (1949)
- Williams v. City of Fayetteville, 348 Ark. 768, 76 S.W.3d 235 (2002)

- McGhee v. Arkansas State Bd. of Collection Agencies, 360 Ark. 363, 201 S.W.3d 375 (2005)
- Alcoholic Beverage Control Division v. Barnett, 285 Ark. 189, 685 S.W.2d 511 (1985)
- Plant v. Wilbur, 345 Ark. 487, 47 S.W.3d 889 (2001)
- White v. Arkansas Capital Corp., 365 Ark. 200, 226 S.W.3d 825 (2006)

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