

SUPREME COURT OF SOUTH CAROLINA

Clarendon County ex rel. Clarendon County Assessor v. Tykat, Inc.,
394 S.C. 21

714 S.E.2d 305 (2011) · No. No. 27025 · Decided August 15, 2011

SUMMARY

The Supreme Court of South Carolina held that a private lessee's leasehold interest in tax-exempt property was subject to ad valorem taxation under South Carolina Code section 12-37-950. The court rejected the lessee's argument that the property was exempt because it was leased from the South Carolina Public Service Authority and used for a public purpose. The court also affirmed the denial of the county's request for attorneys' fees and costs.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Justice Kittredge; Acting Chief Justice Pleicones; Justice Beatty; Justice Hearn; Acting Justice James E. Moore
JURISDICTION	South Carolina
DECIDED	August 15, 2011
DOCKET	No. 27025
DISPOSITION	affirmed
PROCEDURAL POSTURE	Consolidated appeal and cross-appeal from the Administrative Law Court's decision granting Clarendon County's motion for summary judgment, denying Tykat's motion for summary judgment, upholding an ad valorem tax assessment on Tykat's leasehold interest, and denying the county's request for attorney's fees and costs.
STANDARD OF REVIEW	Summary judgment is appropriate when the record shows no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. The Supreme Court reviewed the denial of attorney's fees and costs under the Frivolous Civil Proceedings Sanctions Act and affirmed pursuant to Rule 220(b)(1), SCACR.
PRECEDENTIAL VALUE	Published South Carolina Supreme Court opinion
PARTIES	Tykat, Inc., Clarendon County, through the Clarendon County Assessor, on cross-appeal v. Clarendon County, through the Clarendon

TOPICS

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QUESTIONS PRESENTED

1. Whether a private, for-profit lessee's leasehold interest in property owned by a tax-exempt political subdivision is exempt from ad valorem taxation under article X, section 3 of the South Carolina Constitution when the property is used for a public purpose.
2. Whether South Carolina Code section 12-37-950 requires the leasehold interest to be valued as real estate for property-tax purposes despite the tax-exempt status of the fee owner.
3. Whether Clarendon County was entitled to attorney's fees and costs under the Frivolous Civil Proceedings Sanctions Act.

HOLDINGS

1. A leasehold estate conveyed for a definite term by a tax-exempt grantor to a nonexempt grantee must be valued for property-tax purposes as real estate under South Carolina Code section 12-37-950; the leasehold is not exempt merely because the lessee uses it for a public purpose.
2. Clarendon County was not entitled to attorney's fees and costs under the Frivolous Civil Proceedings Sanctions Act.

KEY QUOTATIONS

"Section 12-37-950 unambiguously requires that Tykat's leasehold estate "be valued for property tax purposes as real estate," and it makes no mention of an exemption if the leasehold estate is used for a public purpose." (394 S.C. at 25-26)

"Applying the plain language of section 12-37-950, we hold that Tykat's leasehold interest was not exempt from ad valorem taxation, regardless of whether Tykat used that interest for a public purpose." (394 S.C. at 26)

FACTUAL BACKGROUND

Tykat, Inc. leased real property owned in fee simple by the South Carolina Public Service Authority and used the property as a campground. The county included the value of Tykat's leasehold interest in an ad valorem tax assessment, although the Authority itself was a tax-exempt political subdivision. The Board of Assessment Appeals found the leasehold interest was not taxable, but the Administrative Law Court upheld the assessment.

PROCEDURAL HISTORY

The Clarendon County Board of Assessment Appeals initially determined that Tykat's leasehold interest was not taxable. Clarendon County sought a contested-case hearing before the Administrative Law Court, and the parties filed cross-motions for summary judgment. The Administrative Law Court granted the county's motion, denied Tykat's motion, and denied the county's request for attorney's fees and costs. The Supreme Court of South Carolina consolidated Tykat's appeal and the county's cross-appeal and granted certification.

DISPOSITION

affirmed

CASES CITED

- S.C. Pub. Serv. Auth. v. Summers, 282 S.C. 148, 318 S.E.2d 113 (1984)
- Charleston County Aviation Auth. v. Wasson, 277 S.C. 480, 289 S.E.2d 416 (1982)
- Taylor v. Davenport, 281 S.C. 497, 316 S.E.2d 389 (1984)
- Quirk v. Campbell, 302 S.C. 148, 394 S.E.2d 320 (1990)
- Wynn ex rel. Wynn v. Doe, 255 S.C. 509, 180 S.E.2d 95 (1971)
- Home Medical Systems, Inc. v. S.C. Dep't of Revenue, 382 S.C. 556, 677 S.E.2d 582 (2009)