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Matteawan On Main, Inc. v. City of Beacon

Supreme Court, Appellate Division, Second Department, New York - August 21, 2013 - N.Y.S.2d - 2013 N.Y. Slip Op. 05680

Nonhomestead property owner sued city to obtain refund of tax overpayments, alleging claims for money had and received, unjust enrichment, for declaratory relief, and for imposition of a constructive trust upon the overpayments. The Supreme Court granted city's motion to dismiss for failure to serve a timely notice of claim. Owner appealed.

The Supreme Court, Appellate Division, held that:

- Dismissal was not warranted on basis that owner's cause of action was barred by applicable statute of limitations, and
- Owner was not required to allege that it paid disputed taxes under protest to obtain a refund.

Generally, there can be no recovery of taxes paid unless the payments were made involuntarily, that is, under protest or duress. However, nonhomestead property owner was not required to allege that it paid disputed taxes under protest, to obtain refund of alleged tax overpayments from city, where owner alleged that it made the tax payments under a mistake of fact because it was unaware that city had miscalculated tax rates applied to homestead and nonhomestead properties and without knowledge that the miscalculation resulted in an incorrect apportionment between homestead and nonhomestead properties and excessive taxes for a number of years.