
TAX - WEST VIRGINIA

Town of Cowen v. Cobb

Supreme Court of Appeals of West Virginia - May 20, 2016 - Not Reported in S.E.2d - 2016 WL 2969917

Former mayor brought action against town to recover money that he was forced to pay to Internal Revenue Service (IRS) due to his and town's failure to pay employment taxes on his behalf.

The Circuit Court, Webster County, ruled in former mayor's favor. Town appealed.

The Supreme Court of Appeals held that:

- Trial court had jurisdiction over action;
- Evidence supported finding that town was unjustly enriched by former mayor's payment of taxes to IRS; and
- Doctrine of unclean hands did not bar former mayor's recovery.

State court had jurisdiction over former mayor's action against town for unjust enrichment based on town's failure to pay employment taxes on mayor's behalf as required by federal law. Former mayor did not contest government's collection of taxes, claim was one invoking doctrine of unjust enrichment, and federal statutes were inapplicable.

Evidence supported finding that town was unjustly enriched by former mayor's payment to Internal Revenue Service (IRS) of employment taxes that town and former mayor had failed to pay on mayor's behalf. Town received benefit of monies being credited to IRS as result of former mayor's payment, and town was aware that payments had not been made and could have been liable as well as mayor.

Doctrine of unclean hands did not bar former mayor's recovery from town of partial reimbursement of employment taxes that had not been paid by town or former mayor. Both parties acknowledged their role in non-payment of taxes.

In determining former mayor's entitlement to reimbursement for town's failure, during his term, to pay federal employment taxes on mayor's behalf, trial court did not err in limiting former mayor's liability for penalties and interest incurred by town to time that he served as mayor. Town did not file counterclaim against former mayor in effort to collect from him amounts it allegedly paid after his resignation.

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