TAX - MICHIGAN

Petersen Financial LLC v. City of Kentwood

Court of Appeals of Michigan - November 20, 2018 - N.W.2d - 2018 WL 6070702

Property owner brought action against county treasurer and city, seeking declaration that special tax assessments on the property had been extinguished under the General Property Tax Act (GPTA) by foreclosure.

The Circuit Court granted defendants' motion for summary disposition. Property owner appealed.

The Court of Appeals held that:

- Circuit court, rather than Michigan Tax Tribunal (MTT), had jurisdiction over property owner's challenge to special assessments, and
- Defendants were engaged in exercise or discharge of a government function under the governmental tort liability act (GTLA), and thus were entitled to immunity on property owner's slander of title action.

Circuit court, rather than tax tribunal, has jurisdiction to consider a challenge to a tax assessment based not on the validity of the assessment per se, but on peripheral issues relevant to enforcing a tax assessment, and which does not require any findings of fact but only construction of law.

Circuit court, rather than Michigan Tax Tribunal (MTT), had jurisdiction over property owner's challenge to special assessments, where the owner did not challenge factual basis or amount of the assessments on his land, which arose from special assessment agreements entered into by prior owner, but argued that the assessments were extinguished under the General Property Tax Act (GPTA) by judgment of foreclosure on the property.

Property owner's challenge to an amendment to voluntary special assessment/development agreement between prior property owner, city, and others was contractual in nature, and thus circuit court, rather than Michigan Tax Tribunal (MTT), had jurisdiction over the issue; the amendment was recorded after a judgment of foreclosure on the property and property owner's challenge to the amendment asserted that it was not supported by consideration and against public policy.

County treasurer and city were engaged in exercise or discharge of a government function under the governmental tort liability act (GTLA) in attempting to collect extinguished special assessments, and thus were entitled to immunity on property owner's slander of title action after city and treasurer attempted to collect on special assessments, entered into by prior property owner, after foreclosure had extinguished the debts; city was authorized to assess and collect such assessments.

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