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Herkimer County Industrial Development Agency v. Herkimer

Court of Appeals of New York - March 25, 2021 - N.E.3d - 2021 WL 1132175 - 2021 N.Y. Slip Op. 01835

County industrial development agency brought action seeking declaration that real property taxes levied against it by village to collect unpaid water rents were void.

Village counterclaimed, seeking judgment declaring that agency was personally liable to village for certain unpaid water rents incurred by manufacturer that was agency's tenant pursuant to bond financing sale-and-leaseback transactions.

The Supreme Court, Herkimer County, granted village's motion to dismiss. Agency appealed. The Supreme Court, Appellate Division, affirmed as modified, and agency appealed.

The Court of Appeals held that agency was not liable to village for unpaid water rents.

County industrial development agency was not liable to village for unpaid water rents incurred by manufacturer that was agency's tenant pursuant to bond financing sale-and-leaseback transactions, where law applicable to subject property provided for a lien upon the real property, and not personal liability by the owner, and contrary to village's argument, village rule regulating how water meters were used to register consumption did not impose an additional remedy for nonpayment.