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Love v. Fulton County Board of Tax Assessors

Supreme Court of Georgia - June 1, 2021 - S.E.2d - 2021 WL 2194523

Citizens, who own real property and pay ad valorem taxes in county, filed petition for writ of mandamus and other relief against county board of tax assessors, individual tax board members, and board's chief appraiser, alleging that board failed to exercise its duty to diligently investigate and determine whether stadium lessee was subject to ad valorem property taxation, and seeking temporary and permanent injunctive relief, to enjoin defendants from recognizing stadium property as tax exempt, and declaration that taxable leasehold interest, rather than non-taxable usufruct, had been transferred to lessee.

The Superior Court granted defendants' motion to dismiss for failure to state a claim. Citizens appealed. The Court of Appeals affirmed in part and reversed in part. On remand, the Superior Court dismissed citizens' claims for mandamus, declaratory and injunctive relief, and refund of taxes paid. Citizens appealed.

The Supreme Court held that:

- Citizens failed to state claim for mandamus;
- Permanent injunction prohibiting board members from continuing to implement board's exemption decision was not warranted; and
- Citizens failed to show they were in position of uncertainty as to an alleged right, as required to obtain declaratory judgment.

Citizens failed to state claim for mandamus, in action against county board of tax appraisers, individual tax board members, and board's chief appraiser, alleging that board failed to exercise its duty to diligently investigate and determine whether stadium lessee was subject to ad valorem property taxation, where their petition and attached exhibits disclosed with certainty that board investigated taxability of lessee's interest and reached decision on that question.

Permanent injunction prohibiting members of county board of tax assessors, in their individual capacities, from continuing to implement board's decision that lessee's interest in football stadium was exempt from ad valorem property taxation was not warranted, in citizen's action to enjoin board members from recognizing stadium property as tax exempt, where petition and attached exhibits showed that board members' exemption decision was founded on evidence that lessee's interest was non-taxable usufruct, that board members did not exercise their discretion in unreasonable, arbitrary, or capricious manner that would constitute gross abuse of duty, and that stadium license and management agreement did not materially change nature of lessee's interest in stadium.

Citizens, who owned real property and paid ad valorem taxes in county, failed to show they were in position of uncertainty as to an alleged right, as required to obtain judgment declaring that taxable leasehold interest, rather than non-taxable usufruct, had been transferred to lessee of football stadium.

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