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DeKalb County v. City of Chamblee

Court of Appeals of Georgia - October 18, 2023 - S.E.2d - 2023 WL 6859224

City brought declaratory judgment action against county and various county officials, alleging that county failed to properly assess and pay city occupational tax on leasehold interests at county-owned airport located within city and county.

The Trial court denied county's motion to dismiss. After obtaining certificate of immediate review from the trial court, county filed application for interlocutory appeal, which was granted.

The Court of Appeals held that:

- City failed to state a claim for declaratory relief under Declaratory Judgment Act;
- City failed to state a claim for collection of past taxes and appointment of an auditor;
- County was not liable for occupancy taxes because it was not a "business" under city code; and
- There was no final ruling to review on issue of city's derivative claim for attorney fees.

City did not face any uncertainty as to any of its own future conduct but instead only sought an adjudication of issues that would impact the future conduct of county when it requested the court to determine that statute authorizing municipal airport owners to lease property required that county's leasehold interests at county-owned airport located within city and county be treated as taxable estates, which would provide city with taxable revenue, and thus, it failed to state a claim for declaratory relief under the Declaratory Judgment Act against county; city sought to determine propriety of county's actions, not its own, and so any judgment could not guide and protect city with regard to some future act.

City failed to point to any statutory provision authorizing its lawsuit against county for damages resulting from county's alleged failure to assess ad valorem taxes for leasehold interests at county-owned airport located within city and county, and thus, city failed to state a claim for collection of past taxes and for appointment of an auditor; separation of powers doctrine required specific legislative empowerment for the judiciary to act regarding executive function in collection of a tax.

County was not liable for occupancy taxes for its leasehold interests at county-owned airport, located within city and county, under city code which provided in pertinent part that each person engaged in a business, trade, or profession or occupation with location within city shall pay an occupational tax for said business, trade, or profession or occupation, because county's operation of the airport qualified as a governmental function, not a "business" under city's code; county did not operate airport for purpose of raising revenue or producing income, but instead, it controlled the airport for public, government, and municipal purposes, as provided by statute authorizing political subdivisions to acquire airports for such purposes.

There was no final ruling by the trial court upon city's derivative claim for attorney fees in city's action against county seeking declaratory relief for county's failure to pay occupancy taxes it allegedly owed city, and as such, there was nothing for Court of Appeals to review on appeal of trial

court’s denial of county’s motion to dismiss the suit, where trial court expressly “reserved ruling” on city’s attorney fees claim.

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