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In re Prospect Crozer LLC

Supreme Court of Pennsylvania - December 17, 2024 - A.3d - 2024 WL 5132101

Taxpayer that owned 34 separate parcels of real estate appealed $80 million assessed value of parcels as excessive. The city board of revision of taxes denied appeal. Taxpayer appealed to trial court, and school district intervened.

Following de novo hearing, the Court of Common Pleas concluded that total fair market value of parcels was $74 million.

Taxpayer appealed and filed application to vacate due to structural error. The Commonwealth Court vacated and remanded. District's petition for allowance of appeal was granted.

The Supreme Court on issues of first impression, held that:

- Constitutional prohibition against holding incompatible office applied to senior judge who was assigned temporarily to tax assessment matter;
- Commonwealth Court had authority to decide whether violation of prohibition occurred, and to provide remedy to taxpayer;
- Position on city board of revision of taxes qualified as position of profit with municipal corporation or political subdivision, within meaning of prohibition;
- City fit definition of either "municipal corporation" or "political subdivision" under prohibition;
- Member of city board of revision of taxes had position with municipal corporation or political subdivision, within meaning of prohibition;
- Acceptance of compensated position with city board of revision of taxes while serving as senior judge assigned temporarily to tax assessment matter violated prohibition; and
- Orders entered in violation of prohibition were subject to waiver rules.

Constitutional prohibition against holding incompatible office applied to temporary senior judge who was assigned to tax assessment matter.

Commonwealth Court had authority to decide whether violation of prohibition against judges holding office or position of profit while holding judicial office occurred, and to provide remedy to taxpayer who challenged orders entered by judge while operating under conflict of duties created by incompatible offices.

Constitutional prohibition against holding incompatible office applied to temporary senior judge who was assigned to tax assessment matter.

The Commonwealth Court has jurisdiction to review a civil appeal from the Court of Common Pleas arising in a municipal tax assessment matter.

Commonwealth Court had authority to decide whether violation of prohibition against judges holding office or position of profit while holding judicial office occurred, and to provide remedy to taxpayer

who challenged orders entered by judge while operating under conflict of duties created by incompatible offices.

Position on city board of revision of taxes qualified as position of profit with municipal corporation or political subdivision, within meaning of Constitutional prohibition against holding incompatible office while holding judicial office, since board member received annual salary of $70,000.

City fit definition of either “municipal corporation” or “political subdivision” under Constitutional prohibition against judges holding office or position of profit while holding judicial office.

In Pennsylvania, violations of incompatible office prohibitions of Constitution do not result in the automatic ouster of judge from either office, and no forced resignation or ouster can be recognized without the challenged officer being a party to the proceeding challenging the office holder’s ability to hold an office; the purpose of challenging a person’s ability to hold an office is to prevent the continued exercise of authority unlawfully asserted, not to correct what has already been done under the authority.

In Pennsylvania, violations of incompatible office prohibitions of Constitution do not result in the automatic ouster of judge from either office, and no forced resignation or ouster can be recognized without the challenged officer being a party to the proceeding challenging the office holder’s ability to hold an office; the purpose of challenging a person’s ability to hold an office is to prevent the continued exercise of authority unlawfully asserted, not to correct what has already been done under the authority.

Remand to trial court for hearing to determine facts surrounding alleged violation of Constitutional prohibition against holding incompatible office and due diligence of party challenging orders entered would have been reasonable, in civil property tax appeal if only relevant issue presented was effect of violation on orders entered in trial court, and offending judge no longer held judicial office and challenge to final orders was made after appeal was filed.

Supreme Court in considering waiver on appeal from property tax assessment was bound on appeal by evidentiary determination by Commonwealth Court that taxpayer exercised due diligence in filing its application to vacate orders entered in violation of Constitutional prohibition against holding incompatible office, over school district’s argument that taxpayer knew that senior judge who was assigned temporarily to tax assessment matter accepted position with city board of revision of taxes, but waited eight months to file its application to vacate, after orders against its position were entered.

Vacating orders entered by senior judge who was assigned temporarily to tax assessment matter while operating under conflict of duties created by incompatible offices, and remand with instructions for new judge to decide tax appeal case based on record developed before prior judge, with proviso that new judge may supplement, but not supplant, existing record, was appropriate, where taxpayer did not argue that new trial was warranted even though, arguably, evidentiary proceedings took place after conflict arose from being compensated for his position on city board of revision of taxes.

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