

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
MICHIGAN TAX TRIBUNAL

Lyle Schmidt Farm, LLC,
Petitioner,

v

MTT Docket No. 14-005367

Mendon Township,
Respondent.

Tribunal Judge Presiding
David B. Marmon

ORDER GRANTING RESPONDENT'S MOTION FOR SUMMARY DISPOSITION

FINAL OPINION AND JUDGMENT

INTRODUCTION

On March 30, 2016, Respondent filed a motion requesting that the Tribunal enter summary judgment in its favor in the above-captioned case. More specifically, Respondent contends that Petitioner's claims are barred under res judicata and collateral estoppel, having previously litigated in Docket Nos. 345608 and 345615. Respondent further contends that this issue has already been ruled on in Docket No. 14-005360.

Petitioner did not file a response to the Motion.

The Tribunal has reviewed the Motion and the evidence submitted and finds that summary disposition should be granted in Respondent's favor under MCR 2.116(C)(7), (8), and (10).

STANDARD OF REVIEW

There is no specific Tribunal rule governing motions for summary disposition. Therefore, the Tribunal is bound to follow the Michigan Rules of Court in rendering a decision on such

motions.¹ In this case, Respondent moves for summary disposition under MCR 2.116(C)(7), (8), and (10).

Under MCR 2.116(C)(7), the claim is barred because of “release, payment, prior judgment, immunity granted by law, statute of limitations, statute of frauds, an agreement to arbitrate or to litigate in a different forum, infancy or other disability of the moving party, or assignment or other disposition of the claim before commencement of action.”

In *RDM Holdings, LTD v Continental Plastics Co*,² the Michigan Court of Appeals addressed a motion for summary disposition filed under MCR 2.116(C)(7). In *RDM*, the court stated:

[T]his Court must consider not only the pleadings, but also any affidavits, depositions, admissions, or other documentary evidence filed or submitted by the parties. The contents of the complaint must be accepted as true unless contradicted by the documentary evidence. This Court must consider the documentary evidence in a light most favorable to the nonmoving party. If there is no factual dispute, whether a plaintiff's claim is barred under a principle set forth in MCR 2.116(C)(7) is a question of law for the court to decide. If a factual dispute exists, however, summary disposition is not appropriate. [Citations omitted.]³

Motions under MCR 2.116(C)(8) are appropriate when “[t]he opposing party has failed to state a claim on which relief can be granted.” Dismissal should be granted when the claim, based solely on the pleadings, is so clearly unenforceable that no factual development could possibly justify a right to recovery.⁴ In reviewing a motion under this subsection, the court must accept as

¹ See TTR 215.

² *RDM Holdings, LTD v Continental Plastics Co*, 281 Mich App 678; 762 NW2d 529 (2008)

³ *Supra* at 687.

⁴ See *Transamerica Ins Group v Michigan Catastrophic Claims Ass’n*, 202 Mich App 514, 516; 509 NW2d 540 (1993).

true all factual allegations in support of a claim, as well as all inferences which can fairly be drawn from the facts.⁵

Summary disposition under MCR 2.116(C)(10) tests the factual support for a claim and must identify those issues regarding which the moving party asserts there is no genuine issue of material fact. Under subsection (C)(10), a motion for summary disposition will be granted if the documentary evidence demonstrates that there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law.⁶ In the event, however, it is determined that an asserted claim can be supported by evidence at trial, a motion under (C)(10) will be denied.⁷

The Michigan Supreme Court has established that a court must consider affidavits, pleadings, depositions, admissions, and documentary evidence filed by the parties in the light most favorable to the non-moving party.⁸ The moving party bears the initial burden of supporting its position by presenting its documentary evidence for the court to consider.⁹ The burden then shifts to the opposing party to establish that a genuine issue of disputed fact exists.¹⁰ Where the burden of proof at trial on a dispositive issue rests on a non-moving party, the non-moving party may not rely on mere allegations or denials in pleadings but must go beyond the pleadings to set forth specific facts showing that a genuine issue of material fact exists.¹¹ If the

⁵ See *Meyerhoff v Turner Construction Co*, 202 Mich App 499, 502; 509 NW2d 847 (1993).

⁶ See *Smith v Globe Life Ins Co*, 460 Mich 446, 454-455; 597 NW2d 28 (1999).

⁷ See *Arbelius v Poletti*, 188 Mich App 14; 469 NW2d 436 (1991).

⁸ See *Quinto v Cross and Peters Co*, 451 Mich 358, 362; 547 NW2d 314 (1996) (citing MCR 2.116(G)(5)).

⁹ See *Neubacher v Globe Furniture Rentals, Inc*, 205 Mich App 418, 420; 522 NW2d 335 (1994).

¹⁰ *Id.*

¹¹ See *McCart v J Walter Thompson USA, Inc*, 437 Mich 109, 115; 469 NW2d 284 (1991).

opposing party fails to present documentary evidence establishing the existence of a material factual dispute, the motion is properly granted.¹²

CONCLUSIONS OF LAW

The Tribunal has carefully considered Respondent's Motion under MCR 2.116 (C)(7), (8), and (10), and finds that the Motion should be granted.

The present case involves an appeal of parcel numbers 75-010-021-005-00, 75-010-021-008-00, 75-010-021-009-00, 75-010-022-012-00, and 75-010-022-016-00. Petitioner contends on appeal that the 2014 taxable values "should have been recapped as of 2004" and "recalculated based on the capped 2004 taxable value."¹³ Respondent argues that the issue of uncapping of Petitioner's agricultural parcels has been previously appealed and addressed by the Tribunal in Docket Nos. 345608 and 345615.¹⁴ The appeals in these previous cases included all of the parcels currently appealed by Petitioner in the present case. Both appeals related to an appeal of the taxable value only, with Petitioner arguing that the taxable values should be recapped to what they were in 2004. In both cases, the Tribunal issued a Final Opinion and Judgment that determined the uncapping of the taxable value in 2005 was proper, as Petitioner failed to meet the filing requirements under MCL 211.27a(7)(n) and 211.27a(8)(b) to prevent the uncapping. Petitioner did not appeal the Tribunal's decisions to the Court of Appeals.

The Tribunal finds that the present case involves the same parties and issue (i.e. recalculating the current year taxable value by recapping the taxable value back to the 2004 tax year) that was addressed in Docket Nos. 345608 and 345615. Respondent has stated that the

¹² See *McCormic v Auto Club Ins Ass'n*, 202 Mich App 233, 237; 507 NW2d 741 (1993).

¹³ Petition at #19.

¹⁴ Respondent's Exhibit 1.

Tribunal has addressed the same issue with respect to *other* parcels owned by Petitioner in Docket No. 14-005360 (this decision was not appealed to the Court of Appeals). In Docket No. 14-0053560, filed in the Small Claims Division, the Tribunal found that the doctrines of res judicata and collateral estoppel applied to bar Petitioner from relitigating the 2005 uncapping that had been heard and decided in prior Tribunal cases.

As stated by the Tribunal in Docket No. 14-005360, collateral estoppel and res judicata can be distinguished; “res judicata bars the reinstatement of the same cause of action by the same parties in a subsequent suit. Collateral estoppel bars the relitigation of issues previously decided when such issues are raised in a subsequent suit by the same parties based upon a different cause of action.”¹⁵

“Under the doctrine of res judicata, ‘a final judgment rendered by a court of competent jurisdiction on the merits is conclusive as to the rights of the parties and their privies, and, as to them, constitutes an absolute bar to a subsequent action involving the same claim, demand or cause of action.’ ”¹⁶ Although the doctrine of res judicata does not apply “if the facts change, or new facts develop . . . Michigan Courts have broadly applied the doctrine of res judicata. They have barred, not only claims already litigated, but every claim arising from the same transaction that the parties, exercising reasonable diligence, could have raised but did not.”¹⁷

The Tribunal finds that the present case involves the 2014 tax year, but the underlying issue in both the present case and prior cases was the 2005 uncapping of the taxable values for the subject parcels. This claim was already litigated between the same parties in Docket Nos.

¹⁵ *Topps-Toeller, Inc v City of Lansing*, 47 Mich App 720, 727; 209 NW2d 843 (1973).

¹⁶ *Wayne Co v City of Detroit*, 233 Mich App 275, 277; 590 NW2d 619 (1998), quoting *Black’s Law Dictionary* (6th ed., 1990).

¹⁷ *In re Pardee*, 190 Mich App 243, 248; 475 NW2d 870 (1991).

345608 and 345615, with the Tribunal rendering a final judgment on the merits regarding the uncapping of the taxable values in 2005. Accordingly, Petitioner's claims in the present case are barred by res judicata.

Collateral estoppel "requires that (1) a question of fact essential to the judgment was actually litigated and determined by a valid and final judgment, (2) the same parties had a full and fair opportunity to litigate the issue, and (3) there was mutuality of estoppel."¹⁸ The Tribunal finds that Petitioner is collaterally estopped from relitigating the uncapping in 2005 as a means of changing the taxable value in 2014. A question of fact (the 2005 uncapping) essential to judgment in the present case was litigated and determined by a valid and final judgment in Docket Nos. 345608 and 345615. Both Petitioner and Respondent had a full and fair opportunity to litigate this issue in the prior cases before the Tribunal. Further, "mutuality of estoppel" exists, as Respondent would have been bound by the Tribunal's final determination in Docket Nos. 345608 and 345615 if those cases had been decided in Petitioner's favor.¹⁹

Given the above, the Tribunal finds that there are no genuine issues of material fact, Petitioner has failed to state a claim on which relief could be granted, and the present case is barred by prior judgment in Docket Nos. 345608 and 345615. Therefore, Respondent is entitled to summary disposition under MCR 2.116(C)(7), (8), and (10).

JUDGMENT

IT IS ORDERED that Respondent's Motion for Summary Disposition is GRANTED.

IT IS FURTHER ORDERED that the case is DISMISSED.

¹⁸ *Estes v Titus*, 481 Mich 573, 585; 751 NW2d 493 (2008).

¹⁹ "Estoppel is mutual if the one taking advantage of the earlier adjudication would have been bound by it had it gone against him." *Monat v State Farm Ins Co*, 469 Mich 679, 696; 677 NW2d 843 (2004).

This Final Opinion and Judgment resolves the last pending claim and closes the case.

APPEAL RIGHTS

If you disagree with the final decision in this case, you may file a motion for reconsideration with the Tribunal or a claim of appeal with the Michigan Court of Appeals.

A Motion for reconsideration must be filed with the required filing fee within 21 days from the date of entry of the final decision.²⁰ Because the final decision closes the case, the motion cannot be filed through the Tribunal's web-based e-filing system; it must be filed by mail or personal service. The fee for the filing of such motions is \$50.00 in the Entire Tribunal and \$25.00 in the Small Claims Division, unless the Small Claims decision relates to the valuation of property and the property had a principal residence exemption of at least 50% at the time the petition was filed or the decision relates to the grant or denial of a poverty exemption and, if so, there is no filing fee.²¹ A copy of the motion must be served on the opposing party by mail or personal service or by email if the opposing party agrees to electronic service, and proof demonstrating that service must be submitted with the motion.²² Responses to motions for reconsideration are prohibited and there are no oral arguments unless otherwise ordered by the Tribunal.²³

A claim of appeal must be filed with the appropriate filing fee. If the claim is filed within 21 days of the entry of the final decision, it is an "appeal by right." If the claim is filed more than 21 days after the entry of the final decision, it is an "appeal by leave."²⁴ A copy of the claim must be filed with the Tribunal with the filing fee required for certification of the record on appeal.²⁵ The fee for certification is \$100.00 in both the Entire Tribunal and the Small Claims Division, unless no Small Claims fee is required.²⁶

By David B. Marmon

Entered: May 9, 2016
klm

²⁰ See TTR 261 and 257.

²¹ See TTR 217 and 267.

²² See TTR 261 and 225.

²³ See TTR 261 and 257.

²⁴ See MCL 205.753 and MCR 7.204.

²⁵ See TTR 213.

²⁶ See TTR 217 and 267.