

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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RONALD FANTIN,

Plaintiff-Appellant,

v

CHARTER TOWNSHIP OF OAKLAND,

Defendant-Appellee.

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UNPUBLISHED

February 13, 2001

No. 215856

Oakland Circuit Court

LC No. 98-007812-CK

Before: Saad, P.J., and Griffin and R. B. Burns\*, JJ.

PER CURIAM.

Plaintiff appeals as of right from an order granting defendant's motion for summary disposition. We affirm.

Plaintiff argues that the trial court erred by granting summary disposition in favor of defendant because the trial court had jurisdiction over plaintiff's claim. We disagree. We review a trial court's grant or denial of a motion for summary disposition de novo. *Sun Communities v Leroy Twp*, 241 Mich App 665, 668; 617 NW2d 42 (2000). When reviewing a motion for summary disposition under MCR 2.116(C)(4), we must determine whether the pleadings demonstrate that the defendant was entitled to judgment as a matter of law or whether the affidavits and other proofs show that there was no genuine issue of material fact. *Id*; *Cork v Applebee's of Michigan, Inc*, 239 Mich App 311, 315; 608 NW2d 62 (2000).

The Headlee Amendment, Const 1963, art 9, § § 25-34, prohibits local governments from increasing the rate of taxation above the rate authorized by law when the Headlee Amendment was ratified, without the approval of a majority of the qualified electors voting thereupon. Const 1963, art 9, § 31; *Taxpayers Allied for Constitutional Taxation v Wayne Co*, 450 Mich 119, 121; 537 NW2d 596 (1995). Suits to enforce the provisions of the Headlee Amendment may be brought either in the Michigan Court of Appeals or in the circuit court in the county in which venue is proper. Const 1963, art 9, § 32; MCL 600.308a(1); MSA 27A.308(1)(1); *Wayne Co Chief Executive v Governor*, 230 Mich App 258, 269-270; 583 NW2d 512 (1998).

Likewise, the jurisdiction of the Michigan Tax Tribunal is also delineated by statute. The tribunal has exclusive and original jurisdiction of proceedings for direct review of final decisions,

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\*Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

rulings, findings, determinations, or orders relating to assessment, valuation, rates, special assessments, allocation, or equalization under property tax laws and of proceedings for a refund or redetermination of a tax under property tax laws. MCL 205.731; MSA 7.650(31). The tribunal's jurisdiction is exclusive, and circuit courts are prohibited from exercising jurisdiction over matters within the exclusive jurisdiction of the tribunal. *Wikman v Novi*, 413 Mich 617, 646; 322 NW2d 103 (1982). However, the tribunal does not have jurisdiction to decide constitutional questions or possess the authority to hold statutes invalid. *Id.* at 647; *Meadowbrook Village Associates v Auburn Hills*, 226 Mich App 594, 596; 574 NW2d 924 (1997). Rather, the circuit courts have jurisdiction over claims involving such challenges. *Id.* Therefore, if issues do not involve the validity of the tribunal's action or a statute, they do not remove the proceeding from the exclusive jurisdiction of the Michigan Tax Tribunal. *Wikman, supra* at 647.

This case hinges on whether plaintiff's complaint stated a true Headlee Amendment claim or whether it merely constituted a challenge to a tax assessment or a proceeding for a tax refund under property tax laws. If plaintiff stated a valid Headlee Amendment claim, then jurisdiction was proper in the circuit court; however, if plaintiff's claims did not involve the validity of the Tax Tribunal's action or a statute, then jurisdiction was proper in the Tax Tribunal. Section 308a(1); *Wikman, supra* at 647; *Wayne Co Chief Executive, supra* at 269-270. Moreover, merely because plaintiff couched his complaint in constitutional terms does not render jurisdiction proper in the circuit court. *Johnston v Livonia*, 177 Mich App 200, 208; 441 NW2d 41 (1989); *Kostyu v Treasury Dep't*, 170 Mich App 123, 128-130; 427 NW2d 566 (1988). Rather, even if an issue is framed in constitutional terms, jurisdiction is proper in the Tax Tribunal if the issues involve the accuracy and methodology of the property tax assessment. *Johnston, supra* at 208.

Plaintiff's complaint alleged that the tax at issue was collected without the necessary approval by the electors because the park millage, adopted in 1975, expired prior to the 1995-1996 and 1996-1997 tax years, and defendant failed to renew the millage. In essence, plaintiff's complaint alleged a violation of Const 1963, art 9, § 6, which provides in pertinent part:

. . . Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. *These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 or Article II of this constitution, voting on the question.* [Emphasis added.]

Plaintiff alleged that defendant violated § 6 by collecting the additional tax for the 1995-1996 and 1996-1997 tax years when it exceeded eighteen mills on each dollar of valuation and the twenty-year time limitation on the approval of the tax had expired. The analysis of this issue involves the examination of plaintiff's individual tax assessment and whether he was, in fact, assessed an aggregate tax exceeding eighteen mills on each dollar of valuation. If so, then

plaintiff's claim that defendant violated § 6 has merit. As in *Johnston, supra*, the validity of plaintiff's tax assessment involves a factual determination of the accuracy of the assessment and the method by which his property was assessed. *Johnston, supra* at 208. These matters are within the exclusive jurisdiction of the Tax Tribunal. *Id.* Furthermore, where individual property owners contest the legality of the tax bills they receive, the Legislature intended such matters to be heard before the Tax Tribunal. *Grosse Ile Committee for Legal Taxation v Grosse Ile Twp*, 129 Mich App 477, 486; 342 NW2d 582 (1983).

Merely because plaintiff chose to phrase his complaint as a violation of the Headlee Amendment rather than as a violation of § 6 does not remove the case from the exclusive jurisdiction of the Tax Tribunal. *Johnston, supra* at 208. While a violation of § 6 will necessarily give rise to a Headlee Amendment violation in this case because the additional tax will have been imposed without the approval of a majority vote of the electors, an analysis of the Headlee Amendment is not necessary to resolve the substantive issue in this case. Const 1963, art 9, § 31. The true issue is whether defendant violated § 6. Although a violation of § 6 is a constitutional issue, this Court has previously recognized that jurisdiction over such claims is appropriate in the Tax Tribunal. *Grosse Ile, supra* at 486. Furthermore, jurisdiction is proper in the Tax Tribunal because plaintiff's issues do not involve the validity of the tribunal's action or a statute. *Wikman, supra* at 647. Because plaintiff's complaint does not allege a true Headlee Amendment claim, the trial court correctly determined that jurisdiction was proper in the Tax Tribunal.

Affirmed.

/s/ Henry William Saad  
/s/ Richard Allen Griffin  
/s/ Robert B. Burns