

STATE OF MICHIGAN
COURT OF APPEALS

CITY OF DETROIT,

Plaintiff-Appellee,

v

2942 CASS and CASS PARK, INC.,

Defendants-Appellants.

UNPUBLISHED

October 19, 2001

No. 220591

Wayne Circuit Court

LC No. 98-825055-CH

CITY OF DETROIT,

Plaintiff-Appellee,

v

138 TEMPLE, CASS PARK, INC., JACK
HAGOPIAN and PEGGY P. HAGOPIAN,

Defendants-Appellants.

No. 220592

Wayne Circuit Court

LC No. 98-825058-CH

CITY OF DETROIT,

Plaintiff-Appellee,

v

132 TEMPLE, CASS PARK, INC., JACK
HAGOPIAN and PEGGY P. HAGOPIAN,

Defendants-Appellants.

No. 220593

Wayne Circuit Court

LC No. 98-825060-CH

Before: Bandstra, C.J., and White and Collins, JJ.

PER CURIAM.

Defendants appeal as of right orders granting plaintiff's motions for summary disposition pursuant to MCR 2.116(C)(10). We affirm but remand for entry of amended judgments of tax foreclosure.

First, defendants contend that plaintiff's procedures for collecting its real estate taxes are not in conformity with the statutory requirements of the state general tax laws. We disagree.

Plaintiff is a home rule city with the power to levy taxes. MCL 117.1 *et seq.* Home rule cities have power to make all reasonable provisions for the collection of these taxes. *Detroit v Walker*, 445 Mich 682, 689; 520 NW2d 135 (1994).

However, defendants assert that plaintiff's city charter cannot be enforced because it conflicts with the General Property Tax Act (GPTA), MCL 211.1 *et seq.* We disagree. MCL 211.107(1) states:

The requirements of this act relating to the amount and imposition of interest, penalties, collection or administration fees, the procedures for collection of taxes, and the enforcement of tax liens are applicable to all cities and villages if not inconsistent with their respective charters or an ordinance enacted pursuant to their respective charters.

MCL 211.107(1) plainly and unambiguously provides that if there is a conflict between the GPTA and plaintiff's city charter, the charter governs. "It is difficult to see how the Detroit City Charter provisions can be inconsistent with an act which provides that charter provisions override the provisions of the act." *Fink v Detroit*, 124 Mich App 44, 53; 333 NW2d 376 (1983).¹

Next, defendant argues that the trial court erred when it held that defendants' tax deeds did not convey to defendants absolute title to the properties in question. Again, we disagree. MCL 211.72 states:

The tax deeds convey an absolute title to the land sold, and constitute conclusive evidence of title, in fee, in the grantee, subject, however, to all taxes assessed and levied on the land subsequent to the taxes for which the land was bid off. This title also is subject to unpaid special assessments and unpaid installments of special assessments.

"The first criterion in determining legislative intent is the specific language of the statute." *Howard v Clinton Charter Twp*, 230 Mich App 692, 695; 584 NW2d 644 (1998). As the statute states, the tax deed by which defendants claim an interest in the properties did not extinguish

¹ Defendants rely on *Magee v Detroit*, 203 Mich App 228; 511 NW2d 717 (1994). However, *Magee* did not consider MCL 211.107(1). Further, the decision was based, at least in part, on a finding that the taxing authorities had violated the city charter by failing to properly record payment of delinquent city taxes. *Magee, supra* at 232-233.

taxes for years after the tax year at issue at the tax sale, i.e., 1987. Defendants are therefore liable for taxes assessed and levied for 1988 and following years. See, e.g., *Ottaco, Inc v Guaze*, 226 Mich App 646, 652; 574 NW2d 393 (1997).

Accordingly, plaintiff was entitled to foreclose on the liens on the properties for taxes owed for the years 1988 through 1995. In accordance with the city charter, these properties were deemed sold to the financial director and, after two years transpired, plaintiff was entitled to bring a civil action to foreclose on the liens on these properties. Consequentially, the circuit court did not err when it determined that defendants' tax deeds did not extinguish the delinquent city taxes on the properties in questions with respect to those tax years.

Nonetheless, defendants argue, and plaintiff concedes, that a relatively small amount of the unpaid taxes that form the basis for the contested judgments was assessed and levied in 1987 or before. Under the statute, the tax deeds granted "absolute title" subject only to tax liability for later years. We remand for entry of amended judgments of tax foreclosure limited to amounts owing for taxes levied and assessed for 1988 through 1995.² Further, the amended judgments should provide defendants sixty days from the date of their entry to make payment, as required by the city charter.

We affirm but remand for entry of amended judgments consistent with this opinion. We do not retain jurisdiction.

/s/ Richard A. Bandstra

/s/ Jeffrey G. Collins

² The precedents relied upon by our dissenting colleague to find pre-sale tax liability did not consider the statutory language at issue here and, accordingly, we do not consider them authority upon which to ignore the clear language employed by the Legislature.