

STATE OF MICHIGAN
COURT OF APPEALS

FORD MOTOR COMPANY,

Petitioner-Appellant,

v

TOWNSHIP OF BRUCE,

Respondent-Appellee.

UNPUBLISHED

September 14, 2004

No. 247186

Tax Tribunal

LC No. 00-294990

Before: Donofrio, P.J., and White and Talbot, JJ.

PER CURIAM.

Petitioner appeals as of right the order of dismissal entered by the Tax Tribunal. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Ford Motor Company filed a petition with the Tax Tribunal asserting that it had paid duplicate property taxes in 1999 on two manufacturing parcels in Bruce Township. It sought a refund under MCL 211.53a, which allows a taxpayer who pays excess taxes because of a clerical error or mutual mistake to file suit within three years to recover the excess paid. The tribunal issued a sua sponte order of dismissal, finding that the assessments were pending before the tribunal in another case, and dismissing the appeal as duplicative.

Petitioner moved for reconsideration, acknowledging that MTT No. 288822 did, in part, involve the same assessment, but noting that it had a motion pending in that case to amend the petition to substitute Bruce Township for the City of Romeo and to correct certain allegations in the petition. Petitioner asserted that “unless and until the motion to amend in docket no. 0288822 has been granted, and the assessments in question are before the Tribunal in docket no. 0288822 with the parties properly aligned, it is premature to dismiss the instant case as duplicative.”

The tribunal denied the motion for reconsideration, noting that the tribunal granted petitioner’s motion to amend in MTT No. 288822, and substituted Bruce Township for the City of Romeo, thus the motion for reconsideration was moot. The tribunal also found that petitioner failed to demonstrate any palpable error by which the tribunal or the parties were misled in the original order. Petitioner now argues that the dismissal was premature and in error because the tribunal held in No. 288822 that the petition in that case was defective because it covered more than one parcel. Thus, petitioner argues, the instant case must proceed in order to preserve its claims regarding the second parcel.

Appellate review of Tax Tribunal decisions is limited. All factual findings are final if supported by competent and substantial evidence. When fraud is not alleged, appellate courts are limited to determining whether the tribunal made an error of law or adopted a wrong legal principle. *Meadowlanes Ltd Dividend Housing Assn v Holland*, 437 Mich 473, 482-483; 473 NW2d 636 (1991).

There is no showing that the tribunal erred as a matter of law or adopted a wrong legal principle in dismissing this petition as duplicative. Petitioner never asserted to the tribunal that it filed this case to contest the assessment as to the second parcel. Rather, it stated only that the dismissal was in error because Bruce Township was not yet a party to the other case. That issue was resolved in petitioner's favor when the tribunal granted the motion to amend to substitute Bruce Township for the City of Romeo in the other action. Further, the ruling declaring that the petition was defective because it included more than one parcel was entered on January 17, 2003 in the same order granting the motion to substitute. The motion for reconsideration was filed subsequently, on January 22. The respondent's response arguing that the issue was moot in light of the tribunal's ruling was filed on January 27, and a decision on the motion was not rendered until February 20, 2003. Thus, petitioner had ample opportunity to bring the argument presented here to the tribunal. Petitioner has failed to show that the tribunal erred in dismissing the appeal as duplicative.

Affirmed.

/s/ Pat M. Donofrio
/s/ Helene N. White
/s/ Michael J. Talbot