

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Joseph Pilchesky, :
Appellant :
v. : No. 273 C.D. 2010
Redevelopment Authority of the : SUBMITTED: October 15, 2010
City of Scranton, The City of :
Scranton, and The University of :
Scranton :

**BEFORE: HONORABLE BONNIE BRIGANCE LEADBETTER, President Judge
HONORABLE DAN PELLEGRINI, Judge
HONORABLE ROCHELLE S. FRIEDMAN, Senior Judge**

OPINION NOT REPORTED

**MEMORANDUM OPINION BY
PRESIDENT JUDGE LEADBETTER**

FILED: April 5, 2011

Appellant, Joseph Pilchesky, proceeding *pro se*, appeals from the order of the Court of Common Pleas of Lackawanna County (common pleas), which dismissed with prejudice Pilchesky's complaint. We affirm.

On November 10, 2008, Pilchesky filed a complaint for declaratory judgment against the Scranton Redevelopment Authority (SRA), the City of Scranton (the City), Scranton City Council and the University of Scranton (University) in common pleas. Pilchesky challenges the City's conveyance of the William T. Schmidt Sports Complex to the SRA and the subsequent sale to the University. The facility is a 10.8-acre recreational facility located in the City and

is more commonly referred to by local residents as the South Side Sports Complex (the Complex). The complaint alleges that the transfer of the Complex was in violation of the Public Trust Doctrine of 1915; the City's sale of the Complex to the SRA was *ultra vires*; the sale of the Complex by the SRA to the University was *ultra vires*; the transfer of the Complex was in violation of the Pennsylvania Constitution; and the transfer constituted intentional fraud. Pilchesky sought a declaration that the sale of the Complex by the City to the SRA was illegal and the deed deemed void, or in the alternative, that the sale of the Complex by the SRA to the University was illegal and the deed deemed void. Pilchesky also sought a declaration that the Complex be held in trust for the people of the City for the intended purpose of staying a public park.

Defendants filed preliminary objections alleging improper service, failure to state a claim upon which relief may be granted, demurrer, res judicata, and statute of limitations. Pilchesky filed preliminary objections to defendants' preliminary objections. Common pleas issued a 75 page memorandum opinion and order, which granted the defendants' preliminary objections and dismissed Pilchesky's complaint with prejudice. This appeal followed.

After carefully reviewing the record, the briefs of the parties, the relevant law, and prior opinions addressing this controversy, the Court concludes that the issues raised by Pilchesky are amply and comprehensively addressed in the well-reasoned and thorough opinion issued by the Honorable Harold A. Thomson, Jr. in *Pilchesky v. Redevelopment Authority of the City of Scranton* (Lackawanna

County, No. 2008 CIV 7706), filed January 13, 2010. The Court therefore affirms common pleas' order on the basis of that opinion.¹

BONNIE BRIGANCE LEADBETTER,
President Judge

¹ In common pleas' discussion of *Pilchesky v. Rendell*, 932 A.2d 287 (Pa. Cmwlth. 2007), it states that “[b]ecause the claims against Rendell, the House, O’Brien, DeWeese, the Senate, Mellow and Scarnati were sustained, the Commonwealth no longer had jurisdiction.” *Pilchesky v. Redevelopment Authority of the City of Scranton* (Lackawanna County, No. 2008 CIV 7706) at 29. The court notes that in *Pilchesky v. Rendell*, Pilchesky’s claims were not sustained. Rather, the Senate’s preliminary objections asserting that Pilchesky failed to state a claim upon which relief may be granted were sustained. 932 A.2d at 291 (Pa. Cmwlth. 2007).

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City of Scranton, The City of	:	
Scranton, and The University of	:	
Scranton	:	

ORDER

AND NOW, this 5th day of April, 2011, the order of the Court of Common Pleas of Lackawanna County is affirmed, and the Court hereby adopts the opinion issued by the Honorable Harold A. Thomson, Jr. in *Pilchesky v. Redevelopment Authority of the City of Scranton* (Lackawanna County, No. 2008 CIV 7706), filed January 13, 2010.

BONNIE BRIGANCE LEADBETTER,
President Judge