

STATE OF MICHIGAN
COURT OF APPEALS

FRED SIEGMUND,

Plaintiff-Appellant,

v

LELAND TOWNSHIP,

Defendant-Appellee.

UNPUBLISHED

July 30, 1996

No. 172728

MTT No. 204290

Before: Michael J. Kelly, P.J., and Bandstra and S.B. Miller,*, JJ.

PER CURIAM.

Plaintiff appeals of right the Michigan Tax Tribunal decision dismissing his petition because it was not timely filed and the MTT did not have jurisdiction. We affirm.

The only issue before us is whether the MTT erred in dismissing plaintiff's petition because it was not timely filed, a question of law that we review de novo, *Dep't of Natural Resources v Holloway Construction Co*, 191 Mich App 704, 705; 478 NW2d 677 (1991). Plaintiff filed his petition challenging the assessment years after it was confirmed by defendant and long after the thirty days allowed by MCL 41.726(3); MSA 5.2770(56)(3). Accordingly, the MTT correctly determined that it had no jurisdiction over plaintiff's action contesting the assessment.

This is the correct result regardless of the merit of plaintiff's argument that promises were made by defendant at the time the assessment roll was confirmed regarding later adjustments. It is also the correct result notwithstanding the November 11, 1993 letter from the township supervisor telling plaintiff that there would be no adjustment of the assessment. To adopt the plaintiff's argument that this date is relevant to the thirty day vote would nullify that rule in any case, like the present one, where a plaintiff later requests relief from a confirmed assessment. The "final decision, finding, ruling, determination, or order" at issue in this case was the original confirmed assessment roll, not a letter written years later by defendant explaining why the confirmed assessment was not going to be adjusted. See MCL 205.731; MSA 7.650(31). Finally, plaintiff's reliance on *Kistner v Milliken*, 432 F Supp 1001 (ED Mich,

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

1977) is misplaced because

plaintiff has received and paid on the tax bill for the special assessment and, in contrast to the plaintiff in *Kistner*, cannot complain that his cause of action has only recently arisen.

For the above reasons, the MTT clearly did not have jurisdiction over plaintiff's late-filed action and plaintiff's appeal of the MTT decision is completely meritless. Nonetheless, considering the fact that plaintiff is acting without the formal representation of an attorney and apparently has a good faith belief that the actions of defendant were contrary to promises made at the time the assessment roll was confirmed, we do not conclude that this appeal was filed vexatiously and we deny defendant's motion for costs or other sanctions under MCR 7.216(C).

We affirm.

/s/ Richard A. Bandstra

/s/ Stephen B. Miller

Judge Michael J. Kelly not participating.