

STATE OF MICHIGAN
COURT OF APPEALS

COUNTRY MEADOWS, G.P. and FLOWERS
OF COUNTRY MEADOWS, INC.

UNPUBLISHED
April 1, 1997

Plaintiffs-Appellants,

v

No. 182305

MTT

TOWNSHIP OF MACOMB,

LC No. 187044, 187617,
187618, 220003, 220005

Defendant-Appellee.

Before: Cavanagh, P.J., and Gage and D.A. Burress*, JJ.

PER CURIAM.

Plaintiffs Country Meadows General Partnership and Flowers of Country Meadows, Inc., appeal as of right from the judgment of the Tax Tribunal upholding the 1993 assessment of a condominium complex.¹ We affirm.

Judicial review of a determination by the Tax Tribunal is limited to determining whether the tribunal made an error of law or applied a wrong principle. The factual findings of the tribunal are final, provided that they are supported by competent, material, and substantial evidence on the whole record. Const 1963, art 6, § 28; *Comcast Cablevision of Sterling Heights, Inc v Sterling Heights*, 218 Mich App 8, 11; 553 NW2d 627 (1996).

Plaintiffs first claim that the Tax Tribunal erred in failing to make an independent determination of the cash value of their property. We disagree. MCL 205.737(3); MSA 7.650(37)(3) provides that “[t]he petitioner has the burden of proof in establishing the true cash value of the property.” Plaintiffs’ sole evidence as to the true value of the property was the price at which the bank had acquired the property in lieu of foreclosure. However, MCL 211.27(1); MSA 7.27(1) specifically excludes consideration of the price obtained at forced sales from the determination of cash value. Consequently, the tribunal did not err in finding that plaintiffs failed to present any evidence to meet their burden of proof.

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

Plaintiffs cite *Jones & Laughlin Steel Corp v City of Warren*, 193 Mich App 348; 483 NW2d 416 (1992), for the proposition that even when the plaintiff fails to meet his burden of proof, the tribunal must still make an independent determination of the true cash value of the property in question. However, unlike the plaintiff in *Jones & Laughlin*, in the present case plaintiffs did not meet their burden of going forward with evidence. See *id.* at 354-356. Under the circumstances, the tribunal could not make an independent determination of the true cash value of the property because it had no evidence on which to base such a determination except that provided by defendant. A contrary holding would be tantamount to requiring the tribunal to hire its own appraiser.

Plaintiffs next argue that the tribunal wrongly barred them from presenting evidence in support of their contention that the assessment was too high. To the extent that any error occurred, we find it to be harmless because plaintiffs did not fulfill their burden of proof by presenting affirmative evidence of the true cash value of the property. See MCL 205.737(3); MSA 7.650(37)(3). Plaintiffs failed to submit an appraisal or other written evidence of the property's true value as required by 1981 AAC, R 205.1642. Plaintiffs cannot meet their burden of proof by showing that the assessor arrived at different valuations for different parcels of property or otherwise alleging errors in the property assessment.

Affirmed. Defendant being the prevailing party, it may tax costs pursuant to MCR 7.219.

/s/ Mark J. Cavanagh

/s/ Hilda R. Gage

/s/ Daniel A. Burrell

¹ Plaintiffs also appealed the assessments on properties containing a day care center and a shopping plaza in Tax Tribunal Nos. 00187617, 00187618, 00220003, and 00220005. However, the parties stipulated to dismiss the appeals related to those properties. Accordingly, we address only the issues relevant to plaintiffs' appeal of Tax Tribunal No. 00187044.