

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1310**

In Re: Johnson Farms Objection to Delinquency Property Taxes.

**Filed June 21, 2021
Affirmed
Slieter, Judge**

Hennepin County District Court
File No. 27-CV-20-4486

Ronald R. Johnson and Dee L. Johnson, Excelsior, Minnesota (*pro se* appellants)

Michael O. Freeman, Hennepin County Attorney, Sara L. Bruggeman, Assistant County Attorney, Minneapolis, Minnesota (for respondent County of Hennepin)

Considered and decided by Slieter, Presiding Judge; Johnson, Judge; and Hooten, Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

Appellants challenge the district court’s order for judgment of delinquent property taxes. Because the three defenses available to appellants—exemption from property taxes, that the property taxes have been paid, or a jurisdictional defect—were not raised by appellants in their response to the county’s tax assessment, we affirm.

FACTS

Appellants Ronald R. Johnson and Dee L. Johnson own approximately 20 acres of land in Hennepin County. In February 2020, respondent Hennepin County notified the

district court administrator that the Johnsons' 2019 property taxes were delinquent. After that notice was sent, Hennepin County sent a notice of the delinquency to the Johnsons. The Johnsons filed a timely answer with the district court objecting to the delinquency notice. They alleged in their answer that a portion of the taxed property had been taken by the city in 1994 and thus was not subject to taxation.

Hennepin County moved for judgment on the pleadings pursuant to Minn. R. Civ. P. 12.03 (“After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings.”). Following a hearing on the motion, the district court granted Hennepin County’s motion, concluding that the Johnsons did not raise either of the “two defenses” permitted by Minnesota Statutes section 279 to be raised in a delinquent-tax proceeding: that the property was exempt from taxation, or that the taxes had been paid. The district court found the Johnsons did not “present a receipt of taxes paid or point to an applicable provision of [the statute] defining exempt property.” This appeal follows.

DECISION

Property tax delinquency proceedings are guided by Minn. Stat. §§ 279.001-.37 (2020). Section 279.05 provides that “[o]n or before February 15th, in each year, the county auditor shall file with the court administrator of the district court of the county a list of the delinquent taxes upon real estate within the county.” Minn. Stat. § 279.05. Following receipt of such notice, “[a]ny person having any estate, right, title, or interest in, or lien upon, any parcel of land embraced in such list . . . may file with the court administrator of the district court an answer setting forth a defense or objection to the tax

or penalty against such parcel of land.” Minn. Stat. § 279.15. The answer “shall . . . set forth in concise language the facts constituting the defense or objection to such tax or penalty.” *Id.* If the district court determines that no valid defense is raised in the answer and that “all provisions of law in relation to assessment and levy of taxes have been complied with,” then “judgment shall be rendered for such taxes and the penalties and costs.” Minn. Stat. § 279.19. “It shall always be a defense . . . that the taxes have been paid, or that the property was not subject to taxation.” *Id.*

The supreme court clarified that “*the only* defenses available in a delinquent tax proceeding ([chapter] 279) are that *the land is exempt from taxation*, that the *taxes have been paid*, or perhaps other jurisdictional defects.” *State v. Elam*, 84 N.W.2d 227, 231 (Minn. 1957) (emphasis added). The language of the statute has not meaningfully changed since *Elam*.

The Johnsons do not allege any of the 103-listed exemptions from payment of property taxes as identified in Minnesota Statutes section 272.02 (2020) apply to their property. Nor do the Johnsons allege that the taxes have been paid or that a jurisdictional defect exists. Therefore, they have alleged none of the three available defenses pursuant to section 279, and rule 12 dismissal was proper.

The Johnsons also argued in district court and maintain on appeal that the assessment constitutes an unequal assessment, that the portion of the property taken by Hennepin County in 1994 was excluded from taxation, and that the assessment violated the Takings Clause and their right to due process provided by the Fifth and Fourteenth Amendments to the United States Constitution. The district court appropriately did not

consider those arguments. *Elam* held that section 278 “is the exclusive remedy” for a taxpayer to raise other defenses. 84 N.W.2d at 282. Therefore, in accordance with *Elam*, these are impermissible defenses in a delinquent-tax proceeding pursuant to section 279.

In sum, because the Johnsons failed to plead a valid defense and Hennepin County’s complaint sets forth a legally sufficient claim for payment of delinquent property taxes, the district court properly granted judgment to Hennepin County on the pleadings.

Affirmed.