

IN THE SUPREME COURT OF OHIO

CASE NO. 2015-1386

JILLIAN PAVILONIS)
)
 Appellee,)
)
 vs.)
)
 CUYAHOGA COUNTY)
 BOARD OF REVISION, et al.)

BRIEF OF APPELLEE JILLIAN PAVILONIS

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STATUTES

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STATEMENT OF THE CASE AND FACTS

This case began with a simple Board of Revision Complaint by Jillian Pavilonis seeking a value reduction regarding her condominium in Euclid, Ohio. Statutory Transcript Exhibit A. The Cuyahoga County Board of Revision indicated that there would be no change in value and Pavilonis disagreed, taking the matter in front of the Ohio Board of Tax Appeals.

The Ohio Board of Tax Appeals issued a ruling on July 23, 2015 indicating that the appraisal evidence submitted by Pavilonis justified a reduction in value.

Cuyahoga County now appeals to the Ohio Supreme Court asking reversal of the Board of Tax Appeals based on a jurisdictional argument that the original complaint filed by Pavilonis was a second complaint filed within the same triennium and therefore, according to the County, is to be rejected entirely because of the double filing prohibition contained in Ohio Revised Code Section 5715.19(A)2.

The Appellee Pavilonis hereby files this Brief arguing that the original complaint filed by Pavilonis was not a second filing within the triennium and therefore is not prohibited by ORC 5715.19(A)2. The BTA was correct in its view of this matter and the case should not be reversed.

LAW AND ARGUMENT

PROPOSITION OF LAW NO. 1: THE BTA DECISION THAT COLMPLAINT IS NOT BARRED BY R.C. 5715.19(a)(2), AS A SECOND FILING IN THE TRIENNIUM IS UNREASONABLE AND UNLAWFUL, AND BASED ON AN INCORRECT LEGAL CONCLUSION, BECAUSE IT AFFIRMATIVELY APPEARS THAT THE BYA IGNORED BOR TESTIMONY, AND ISGNORED DOCUMENTS, WHICH WERE NOT OBJECTED TO, BOTH WHICH SHOW THERE IS NO JURISDICTION FOR THE COLMPLAINT HEREIN.

Cuyahoga County presents a fairly straightforward argument. Because Ohio Revised Code Section 5715.19 (A)2 prohibits a second filing in the triennium, the County argues that the complaint filed by appellant Pavilonis is a second filing because a previous filing was made by a company named Transworld Investments LLC which was a company that had been controlled by her husband Eric Uchbar.

The County presents no argument whatsoever in case law or in statute that prohibits the transfer of property from a corporate entity to an individual. In addition, the County presents no case or statutory law indicating that the transfer from an LLC to the wife of the husband who controls that LLC invalidates that transfer in any shape or form.

Cuyahoga County also incorrectly points to the fact that the earlier Transworld Complaint was not contained in the record as being the basis for the decision made by the BTA. In fact, Cuyahoga County recognized that a transfer of the property had taken place but argued in front of the Board of Revision that the complaint filed by Jillian Pavilonis was a second filing merely because Jillian Pavilonis has the same address as Transworld, LLC. This can be seen on Page 2 of the BTA Decision in which the BTA stated:

In their motion, the County Appellees acknowledge that Transworld filed the earlier complaint, but they argue that it is still a multiple filing because Transworld and Appellant share the same address.

BTA Opinion of July 23, 2015, p.2.

The Brief filed by Cuyahoga County wanders about discussing elements of evidence in front of the Board of Revision and in front of the BTA. However, it seems that the County is making the argument that it just doesn't seem fair for Jillian Pavilonis to be able to file a complaint when her husband's Limited Liability Company had filed a previous complaint.

Regardless of the closeness of relationship between Transworld and Uchbar, there is nothing in any law that prohibited the transfer to Jillian Pavilonis.

One last note is important here. The County notes that the transfer from Transworld to Jillian Pavilonis was not "at arms length." The Appellees acknowledge this fact because it is irrelevant to the question at hand.

Whether a transaction is an "arms length" transaction relates only to the question of the valuation of the property and not to the question of the legitimacy of the transfer to begin with.

In the case at hand, the Board of Tax Appeals relied on the appraisal information in order to determine the value and did not refer at all to the value of the property in the hands of the previous owner or the purchase price paid by Jillian Pavilonis to Transworld. BTA Opinion of July 23, 2015, p.2.

PROPOSITION OF LAW NO. II: THE BTA DECISION IS UNREASONABLE, UNLAWFULL, AND AN ABUSE OF DISCRETION BECAUSE THE COMPLAINANT, AND ALLEGED OWNER, WHO APPARENTLY PREPARED THE COMPLAINT, DID NOT APPEAR BEFORE THE BOR AND BTA, AND WAS REPRESENTED BY HER HUSBAND, WHO ALTHOUGH HE IS NOT AN ATTORNEY, AND ALLEGEDLY NOT AN OWNER, MADE LEGAL ARGUMENTS, EXAMINED AN APPRAISAL WITNESS, AND UNDERTOOK OTHER TASKS THAT CAN BE PERFORMED ONLY BY AN ATTORNEY, THEREBY CAUSING THE DECISION TO BE BASED ON DEFECTIVE EVIDENCE, WHICH THEREBY THE CASE SHOULD HAVE BEEN DISMISSED FOR LACK OF JURISDICTION

County argues here that the entire decision should be reversed because Eric Uchbar engaged in the unauthorized practice of law in this case.

The County cites the case of *Dayton Supply and Tool Company Inc. vs. Montgomery County Board of Revision*, 111 Ohio State third 367 (2012) as authority for their position.

The County wrongly reads that case. *Dayton Supply* concerned a non-attorney acting on behalf of a Corporation. The court ruled that the corporate officer, even though he was not an attorney, could in fact present arguments challenging the County Auditor's valuation. *Id at 375.*

The court specifically discussed the public interest in allowing non-attorneys to proceed in certain areas where justice and common sense so requires. The Court in *Dayton Supply* specifically discussed the closeness of the relationship between the non attorney and the party appealing the valuation and realized that we do not have the normal dangers of layperson practice in such instances. *Id. at 374.*

In the case at hand, the person who spoke on behalf of Pavilonis was in fact her husband. Can we find a closer relationship than that of the marital bond? It is consistent with *Dayton Supply* for this court to recognize that it was perfectly appropriate for Mr. Uchbar to participate in a process in which Mrs. Uchbar was the complainant. A valuation complaint is just the sort of matter in which the public interest dictates that allowing a non-attorney husband to represent his wife makes all the sense in the world. *Id.*

CONCLUSION

Wherefore, the Appellee requests that the appeal made by Cuyahoga County be denied and that the Supreme Court affirm the Board of Tax Appeals action in this matter.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A copy of the foregoing has been sent via the court's e-filing system and by regular U.S. Mail this 19th day of January, 2016 to:

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