

New Jersey Law Journal

VOL. 213 NO. 10

MONDAY, SEPTEMBER 2, 2013

An ALM Publication

Tax Law

Tax Court Retains Subject Matter Jurisdiction Despite Misdesignation of Plaintiff

By Robert J. Alter

During the 2012-13 court year, the New Jersey Supreme Court rendered one opinion in a tax case involving the specialized litigation of real estate tax appeals.

In *Prime Accounting Department v. Township of Carney's Point*, 212 N.J. 493 (2013), the Supreme Court held that the plaintiff's misdesignation of the name of the actual aggrieved taxpayer in the tax appeal complaint did not deprive the Tax Court of subject matter jurisdiction.

The procedural history of the case began with a timely filed tax appeal complaint regarding a commercial property. The complaint correctly listed the property's block and lot designations and street address, but did not correctly designate the name of the current property owner or the aggrieved taxpaying sublessee, Bocelli, LLC. Instead, the complaint named Prime Accounting Department, which had been incorrectly listed on the municipal tax assessment list and notices as the property owner. Prime Accounting Department was not a legal entity, but an office that processed property taxes on behalf of the prior lessee, Prime Management Company, Inc. Neither entity was affiliated with the current property owner, Bocelli. As a result of the Tax Court judge questioning whether Prime Accounting Department was a party authorized to file a tax appeal regarding the property, Bocelli filed a motion to amend. The Tax Court denied the motion and dismissed the tax appeal, finding that due to the defect in the original complaint, the Tax

Court lacked subject matter jurisdiction.

The Appellate Division affirmed finding that Bocelli had failed to file a timely

aggrieved taxpayer, as are certain others with an interest in the property, including some tenants. Rule 8:3-5 requires the com-



Alter is a partner at McElroy, Deutsch, Mulvaney & Carpenter in Morristown, and past chairman of the Section of Taxation of the N.J. State Bar Association. He specializes in representing business and individual clients in civil and criminal tax disputes with state and federal authorities.

complaint in the name of the true party in interest, and such an omission warranted dismissal on jurisdictional grounds.

The Supreme Court reversed the Appellate Division and remanded the case to the Tax Court in a unanimous opinion holding that the misdesignation of the plaintiff in the tax appeal complaint did not deprive the Tax Court of subject matter jurisdiction.

By way of background, the jurisdiction of the Tax Court is limited by its enabling statute. A tax appeal must be filed on behalf of an aggrieved taxpayer within the meaning of N.J.S.A. 54:3-21. A sole owner who pays the entire tax is an

plaint to include the property's block, lot and street address; the name of the owner; the assessment; and the type of property.

In reviewing the subject complaint, the Supreme Court noted it was timely filed and correctly listed the property's block and lot description and street address. It was served on the township and county official, but was not served on the actual owner of the subject property, as Rule 8-5-3(a)(8) mandates when a tenant files a tax appeal. Bocelli was the aggrieved taxpayer and had standing to file the tax appeal. The township was on notice that Bocelli had assumed the role of the taxpayer, yet it did not correct its assessment list.

Tax Law

Consequently, the Supreme Court found that the defective complaint did not prejudice the township and could be corrected by allowing the filing of an amended complaint that related back to the filing of the original complaint.

In emphasizing the importance of the original complaint correctly identifying the property in issue, and the lack of any resulting prejudice to the township since it was put on notice, the Supreme Court held that

the application of the relation-back doctrine in Rule 4:9-3 was warranted so that the defective complaint could be corrected by an amended complaint that relates back to the filing of the original complaint.

In support, the court noted that under Rule 4:9-3, an amendment relates back to the date of the original pleading when the amended claim arose out of the conduct, transaction or occurrence set forth in the pleading, and that cases construing the rule

permit the amended complaint with the party's name corrected to relate back to the original filing. Furthermore, the court noted that said approach was consistent with the federal court's interpretation of an analogous federal civil procedure rule and cases construing that rule, which allowed a corrected complaint to relate back to the original filing date without the error in the original complaint destroying subject matter jurisdiction. ■