

NO. CV 126021951S : SUPERIOR COURT
REDDING LIFE CARE LLC : JUDICIAL DISTRICT OF
v. : NEW BRITAIN
TOWN OF REDDING : APRIL 22, 2014

MEMORANDUM OF DECISION ON
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

The plaintiff, Redding Life Care, LLC, brings this present action, pursuant to General Statutes § 12-117a, appealing the decision of the board of assessment appeals (BAA) and claiming that the total value of \$82,334,600, as determined by the town of Redding's assessor on the Grand List of October 1, 2011, was in excess of the property's true value.

The plaintiff's complaint fails to recite that the same parties filed a previous tax appeal in the case of Redding Life Care, LLC v. Redding, Docket No. HHB CV 08 4019333, for the same property challenging the assessor's valuation based on the revaluation year of October 1, 2007. The present appeal not only fails to recite the previous appeal, but fails to specifically identify the revaluation date to which the Grand List of October 1, 2011 applies.¹

General Statutes § 12-62 (b) (1) requires each town to revalue its real property once every five years and provides that "[t]he town shall use assessments derived from each such revaluation for the purpose of levying property taxes for the assessment year in which

FILED
APR 22 P 4:28
SUPERIOR COURT

It is clear from our case law that “[o]nce the assessor determines the fair market value, that valuation remains the same until the next statutorily mandated revaluation takes place” Waterbury Hotel Equity, LLC v. Waterbury, 85 Conn. App. 480, 491-92, 858 A.2d 259, cert. denied, 272 Conn. 901, 863 A.2d 696 (2004).

This present appeal is based on the claim that the valuation of the subject property was never fully and fairly litigated in the 2007 appeal, and therefore, this second appeal seeks to establish the fair market value of the subject property, as of October 1, 2011.

The 2007 tax appeal, which the plaintiff has failed to reference, was decided by the Supreme Court under the caption Redding Life Care, LLC v. Redding, 308 Conn. 87, 61 A.3d 461 (2013). The Redding Life Care court concluded that “the trial court rejected the plaintiff’s valuation of its property for lack of credibility because it was based on calculations and a formula that did not reflect a reasonable value of the real estate. The plaintiff thus failed to meet its burden of proving aggrievement under § 12-117a, and the trial court properly rejected that claim for lack of evidentiary support.” *Id.*, 115.

In the present appeal, the plaintiff claims that because the trial court did not reach the issue of the true value of the subject property in the 2007 appeal, it is proper to take the present appeal for the court to set the valuation of the subject property, as of October

such revaluation is effective and for each assessment year that follows until the ensuing revaluation becomes effective.”

1, 2011.²

The defendant town filed two special defenses to the plaintiff's complaint:

- 1) that the action is barred by the doctrine of res judicata since this action is a mirror image of Redding Life Care, LLC v. Redding, Docket No. HHB CV 08 4019333, involving the same parties, the same property, the same revaluation date, and
- 2) that the action is barred by the doctrine of collateral estoppel.

Based on the two special defenses, the town filed a motion for summary judgment claiming that there is no genuine issue as to any material fact and that the defendant is entitled to judgment as a matter of law

The plaintiff argues that the doctrines of collateral estoppel and res judicata are inapplicable because the prior Redding Life Care case did not decide the October 1, 2007 revaluation issue.

²
The plaintiff's memorandum of law in opposition to defendant's motion for summary judgment, dated January 31, 2014, recites in its introduction as follows:

"The Plaintiff is entitled to bring this appeal of the 2011 Grand List assessment as the assessment is based on a value in excess of the fair market value of its property. The 2011 Grand List value was not determined by the trial court in the previous litigation over the 2007-2010 assessment years Further, the 2011 Grand List appeal was not included in the 2007 appeal. Therefore, the Plaintiff's appeal is not barred by collateral estoppel. The Plaintiff is entitled to establish aggrievement and a proper evaluation as to the fair value of the property for the 2011 Grand List."

The plaintiff misconstrues the effect of a court action in a real estate tax appeal where the court hears the claims of the parties and finds that the plaintiff has not proven itself to be an aggrieved party.

In a tax appeal pursuant to General Statutes § 12-117a, a property owner may directly call into question the assessor's determination of value for his or her property. In this regard, the trial court performs a two step function. See Redding Life Care, LLC v. Redding, 308 Conn. 99. In the first step, the trial court determines whether the property owner has been aggrieved by the BAA's action rejecting the taxpayer's claim that the property has been overassessed. If aggrievement is found, the trial court, in the second step, makes a finding of the true value of the subject property. *Id.*, 100.

As the court in Redding Life Care, id., noted: “[T]he trial court first must determine whether the plaintiff has offered sufficient, credible evidence that the subject property has been overvalued. If the trial court concludes that the plaintiff has not met its burden, the trial proceeds no further, and the town's assessment stands. See, e.g., Ireland v. Wethersfield, 242 Conn. 550, 557-58, 698 A.2d 888 (1997) (‘[i]f the trial court finds that the taxpayer has failed to meet his burden because, for example, the court finds unpersuasive the method of valuation espoused by the taxpayer's appraiser, the trial court may render judgment for the town on that basis alone’); see also *id.*, 559 (‘[a] taxpayer . . . who fails to carry [the] burden [of establishing overvaluation] has no right to complain if

the trial court accords controlling weight to the assessor's valuation of his property').”

The issue presented in the plaintiff's appeal is whether, in a real estate property tax appeal, a party may challenge aggrievement and valuation in two successive separate appeals that relate to the same revaluation year. It may not. A litigant cannot be permitted to contest the validity of an assessment figure twice within the same revaluation period established by General Statutes § 12-62. See Waterbury Hotel Equity, LLC v. Waterbury, supra, 85 Conn. App. 494, citing Uniroyal, Inc. v. Board of Tax Review, 182 Conn. 619, 633-34, 438 A.2d 782 (1981).

The two step process in a tax appeal does not, as the plaintiff contends, create two separate proceedings, i.e., aggrievement and valuation. The process in a tax appeal first requires the trial court to consider the value of the subject property in the context of whether the plaintiff has met his or her burden of proving to the court that the valuation is excessive. Ireland v. Wethersfield, supra, 242 Conn. 557-58. It is only when the trial court has found that the plaintiff has met his or her burden that the court proceeds to the next step of determining the true value of the property. Konover v. West Hartford, 242 Conn. 727, 734-35, 699 A.2d 158 (1997).

The property owner's failure to persuade the court that he or she has been aggrieved does not leave the valuation of the property in limbo. In other words, the town's valuation will stand.

The plaintiff's main argument relies on the holding in Carol Management Corp. v. Board of Tax Review, 228 Conn. 23, 633 A.2d 1368 (1993), for the proposition that collateral estoppel does not apply here because the valuation issue of the subject property was never fully and fairly litigated in the 2007 appeal.

However, the Carol Management decision is not analogous to the present claim. In Carol Management, the trial court determined that collateral estoppel precluded the plaintiff from retrying a prior suit based on a § 12-119 claim. The trial court found that the plaintiff was aggrieved and decreased the assessment value based on a § 12-118 (now § 12-117a) claim not previously raised in the prior suit.

In order for the plaintiff to maintain the present tax appeal, it would have to revert back to the revaluation year of October 1, 2007 and persuade the trial court that the valuation of the subject property, as established by the assessor in 2007, was excessive. In other words, the issue is not the valuation of the subject property as of October 1, 2011, but what was the true value of the subject property as of October 1, 2007.

Having previously appealed the October 1, 2007 valuation of the subject property, the plaintiff did place in issue the valuation of the subject, as of the revaluation year of October 1, 2007. The fact that the trial court found that the plaintiff in the first Redding Life Care case was not aggrieved, cannot be construed to mean that the valuation of the property was not considered. In order for the court to consider whether or not the plaintiff

was aggrieved, the court would have had to determine, in the first instance, that the property was overvalued, and secondly, if so, what was the true value.

A retrial of the 2007 revaluation of the property would be nothing more than the raising of the same issue of valuation in a subsequent appeal involving the same parties, the same property and the same revaluation year. A retrial of the 2007 revaluation would also require the plaintiff to once again prove aggrievement. In other words, a trial on the 2011 appeal would allow the plaintiff to retry its 2007 appeal. It is well noted that “[t]he remedy of revaluation was established by the legislature and it was the judgment of the legislature that the remedy need only be available once [each revaluation period].”

(Internal quotation marks omitted.) Waterbury Hotel Equity LLC, 85 Conn. App. 497, quoting Uniroyal, Inc. v. Board of Tax Review, 182 Conn. 629.

The doctrine of res judicata and collateral estoppel, as claimed by the town, fall into two categories, claim preclusion (res judicata) and issue preclusion (collateral estoppel). Massey v. Branford, 119 Conn. App. 453, 464, 988 A.2d 370 (2010).

“[W]hether to apply either doctrine in any particular case should be made based upon a consideration of the doctrine’s underlying policies, namely, the interests of the defendant and of the courts in bringing litigation to a close . . . and the competing interest of the plaintiff in the vindication of a just claim. . . . The judicial doctrines of res judicata and collateral estoppel are based on the public policy that a party should not be able to

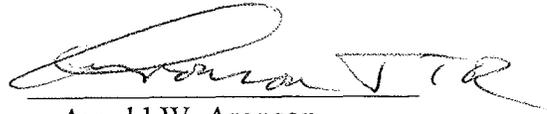
relitigate a matter which it already has had an opportunity to litigate.” (Internal quotation marks omitted.) Id.

Considering the facts in this case where the plaintiff did litigate the issue of the subject property’s valuation based upon the revaluation year of October 1, 2007, the doctrine of res judicata applies since the interests of the plaintiff and the defendant were at issue in the 2007 appeal. The plaintiff sought a reduction in the valuation of its property and the defendant town relied on its determination of the fair market value of the real estate.

In the 2007 tax appeal, the plaintiff maintained that the subject property was excessively overvalued by the assessor, as of the revaluation date of October 1, 2007, and brought suit seeking a reduction of the tax assessment. As noted in the court’s analysis of the first Redding Life Care, LLC v. Redding case above, the plaintiff’s 2007 appeal was fully tried by both parties with extensive testimony from real estate appraisers.

Given the fact that the 2007 tax appeal was fully tried, the present action, which is based on the claim that the October 1, 2007 revaluation was excessive, would be a mirror image of the trial on the 2007 appeal. As noted in Massey v. Branford, supra, 119 Conn. App. 464, it would be against public policy to permit the present case to be relitigated.

Accordingly, the defendant’s motion for summary judgment is granted.

A handwritten signature in black ink, appearing to read "Aronson JTR", written over a horizontal line.

Arnold W. Aronson
Judge Trial Referee