STATE OF MICHIGAN

COURT OF APPEALS

CLARENCE BIRD,

Plaintiff-Appellant,

v

WHEATFIELD TOWNSHIP,,

Defendant-Appellee.

UNPUBLISHED
May 31, 1996

No. 177714
LC No. 99529

DUANE BIRD,

Plaintiff-Appellant,

v

WHEATFIELD TOWNSHIP,

Defendant-Appellee

No. 177715
LC No. 100227

CLARENCE BIRD,

Plaintiff-Appellant,

v

WHEATFIELD TOWNSHIP,

Defendant-Appellee.

No. 177716
LC Nos. 139412, 158088, 100227

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

DUANE BIRD,

Plaintiff-Appellant,

No. 177717
LC Nos. 39412, 158088

v

WHEATFIELD TOWNSHIP,

Defendant-Appellee.

Before: Michael J. Kelly, P.J., and Bandstra and S.B. Miller,* JJ.

PER CURIAM.

Plaintiffs appeal as of right from the July 25, 1994 opinion and judgment of the Michigan Tax Tribunal. These four consolidated appeals stem from a dispute as to the proper method of assessment of agricultural property. The cases were heard in the small claims division of the Michigan Tax Tribunal and therefore no transcripts of the proceedings were made.

Plaintiffs' four pieces of property in Wheatfield Township are identified by fifteen digit numbers, the first seven of which are all the same. We will use the last eight digits. Parcel 1 is 16-100-004 consisting of 120 acres, 85 of which are farmland with a building, and 35 acres of woods. Parcel 2, 09-300-001 encompasses 80 acres including 16 acres of woods. Parcel 3, #16-100-001 encompasses 40 acres with two buildings, and parcel 4, #17-200-005 encompasses 18-1/2 acres of farmland.

This is the third time the assessments on these properties has reached the Court of Appeals. We are not aided by the defendant-appellee which has disdained filing briefs.

The controlling issue is whether the tax tribunal committed reversible error in failing to properly consider the present economic income of petitioners'-appellants' lands in determining the subject properties' assessment. We hold that it did not and affirm.

In our previous dispositions we remanded to the Tax Tribunal for consideration of the actual income of the agricultural properties and for redetermination of the tax assessments after consideration of the income. On remand a small claims division tribunal consisting of two judges reviewed the records and briefs, declined to conduct oral arguments and issued its unanimoius order July 25, 1994, finding independently the true cash values of the subject property for the years in question as follows:

Tax Code	Year	TCV	Revised Assessment
33-07-09-300-001	1986	$ 56,200	No revision
33-07-16-100-001	1986	60,200	No revision
33-07-17-200-005	1986	14,000	No revision

33-07-16-100-004	1986	129,200	No revision
33-07-17-200-005	1989	12,000	No revision
33-07-17-200-005	1990	13,000	No revision
33-07-17-200-005	1991	12,800	No revision
33-07-09-300-001	1989`	48,800	No revision
33-07—09-300-001	1990	52,400	No revision
33-07-09-300-001	1991	55,200	No revision
33-07-16-100-001	1989	51,800	No revision
33-07-16-100-001	1990	56,000	No revision
33-07-16-100-001	1991	55,200	
33-07-16-100-004	1990	120,200	No revision
33-07-16-100-004	1991	118,400	No revision

The tribunal recognized petitioners' claimed income methodology valuation and respondent's costs-less-depreciation methodology, found each methodology wanting, arrived at its own cash value, and selected and applied the approach which provided the most accurate indication of the properties' values. It expressly reviewed and considered the income information provided at the hearing by petitioners. It stated its awareness that respondent had not considered the income information, but it rejected the conclusions petitioners urged of taking its de minimus income figures, multiplying them by four, in certain instances resulting in a zero true cash value, or taking the actual income of $2,250 from the 130-acre farm, or the $2,000 income derived from the 120 acres on Parcel 100-04 and urging such valuations as the true cash valuation. We believe the tribunal was well within its discretion to reject those unsupported and probably unsupportable constructs in support of its conclusion that petitioners erred in the interpretation of MCL 211.27(1); MSA 7.27. We Agree that the issue before the tribunal was not improper classification of the subject property. Respondent never testified or offered its intent to evaluate the property as potential commercial, industrial or residential property, or on any other future use for nonagricultural purposes. The tribunal did what it was ordered to do; it took into consideration the income of the properties, but rejected that approach as determinative.

Affirmed.

/s/ Michael J. Kelly
/s/ Richard P. Bandstra
/s/ Stephen B. Miller