

STATE OF MICHIGAN
COURT OF APPEALS

SINGH MANAGEMENT COMPANY, INC.,

Petitioner-Appellant,

v

CITY OF NORTHVILLE,

Respondent-Appellee.

UNPUBLISHED

January 12, 2006

No. 256258

Tax Tribunal

LC No. 00-298253

Before: O’Connell, P.J., and Smolenski and Talbot, JJ.

PER CURIAM.

Petitioner appeals as of right from a Tax Tribunal order granting respondent’s motion for summary disposition and denying petitioner’s motion for summary disposition. The petition at issue challenged the 2003 assessed and taxable values of certain commercial property, but was premised on an alleged erroneous increase in taxable value for the 2000 tax year. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

In the absence of fraud, this Court reviews a decision of the Tax Tribunal to determine whether the tribunal erred in applying the law or adopted a wrong legal principle. *Danse Corp v City of Madison Hts*, 466 Mich 175, 178; 644 NW2d 721 (2002). The tribunal’s factual findings are conclusive “if supported by competent, material, and substantial evidence on the whole record.” *Id.* (citation and internal quotation marks omitted).

In *WPW Acquisition Co v City of Troy*, 466 Mich 117, 123; 643 NW2d 564 (2002), our Supreme Court determined that MCL 211.34d(1)(b)(vii) “is unconstitutional in purporting to define ‘additions’ for the purposes of § 3 in a way that is inconsistent with the established meaning of that term at the time it was added to this constitutional provision by the passage of Proposal A.” There is no dispute that respondent relied on the unconstitutional provision as a basis for uncapping the taxable value for the 2000 tax year with respect to the subject property. But the issue here is whether petitioner may obtain relief with respect to the property’s value for the 2003 tax year on the basis of an increase in the taxable value in 2000 that was premised on a statutory provision that was later deemed unconstitutional.

Relying on *Springhill Assoc, Ltd Partnership #2 v Twp of Shelby*, unpublished opinion per curiam of the Court of Appeals, issued December 11, 2003 (Docket Nos. 247100, 247101, 247102, 247103, 247104, 247105), the tribunal concluded that petitioner was precluded from relying on the increase for the 2000 tax year as the basis for challenging the taxable value for the

2003 tax year. On appeal petitioner does not address *Springhill Assoc, Ltd Partnership #2*, or the reasoning therein. As unpublished opinions are not binding under the rules of stare decisis, MCR 215(C)(1); see also *Dyball v Lennox*, 260 Mich App 698, 705 n 1; 680 NW2d 522 (2004), we also do not rely on *Springhill Assoc, Ltd Partnership #2* in our resolution of the issue.

Petitioner states that, contrary to the tribunal's order, it *did* timely contest the property's taxable value for the 2000 tax year in a prior petition before the Tax Tribunal. However, regardless of whether petitioner previously timely filed a petition challenging the taxable value for the 2000 tax year, the tribunal correctly granted summary disposition in favor of respondent in this case, which involves a challenge to the taxable value for the 2003 tax year. Even if petitioner properly invoked the tribunal's jurisdiction with respect to the 2000 tax year in *Singh Dev Corp v City of Northville*, Tax Tribunal Docket No. 277482, the tribunal dismissed that action on procedural grounds. As a result, petitioner failed to obtain relief with respect to the 2000 taxable value. "Failure to correct assessments and evaluations in the manner and time provided by statute precludes later attack upon the assessment." *Auditor Gen v Smith*, 351 Mich 162, 168; 88 NW2d 429 (1958). The fact that petitioner's prior failure was the result of its failure to comply with the tribunal's orders as opposed to its failure to file a timely petition is a distinction without a difference.

Although not cited by the parties, MCL 205.22(4) supports the tribunal's determination. That statute provides that "[t]he assessment, decision, or order of the department, if not appealed in accordance with this section, is final and is not reviewable in any court by mandamus, appeal, or other method of direct or collateral attack." Having failed to properly pursue relief in its direct challenge to the 2000 taxable value, petitioner is precluded from now collaterally attacking that taxable value in the context of this challenge to the 2003 taxable value.

Petitioner maintains that an unconstitutional statute is void ab initio and, therefore, the ruling in *WPW Acquisitions, supra*, "must be applied to negate Respondent Appellant's action is uncapping the 2000 & subsequent years' Taxable Values." Although petitioner cites authority for the proposition that unconstitutional statutes are void ab initio, petitioner does not cite any authority for the proposition that a determination of unconstitutionality of a statute nullifies the limitations on the tribunal's authority to examine the taxable values of property for prior years. Petitioner has failed to adequately address this point.

It is not enough for an appellant in his brief simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position. The appellant himself must first adequately prime the pump; only then does the appellate well begin to flow. [*Mudge v Macomb Co*, 458 Mich 87, 105; 580 NW2d 845 (1998), quoting *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959).]

In summary, petitioner has not demonstrated that the Tax Tribunal erred in applying the law or adopted a wrong legal principle in determining that petitioner was precluded from

challenging the taxable value for the 2003 tax year on the basis of an assessment increase for the 2000 tax year pursuant to a statutory provision that was later deemed unconstitutional.

Affirmed.

/s/ Peter D. O'Connell
/s/ Michael R. Smolenski
/s/ Michael J. Talbot