08/19/49 CHRISTIAN BUSINESS MEN'S COMMITTEE

38 N.W.2d 803 (1949) | Cited 0 times | Supreme Court of Minnesota | August 19, 1949

On Petition for Reargument.

On August 19, 1949, the following opinion was filed:

Per Curiam.

The petition for reargument is denied.

The absence of special statutory machinery for assessing property on the basis that a single parcel may be pro rata exempt from taxation and pro rata taxable according to its separate uses presents no practical difficulty. There is nothing to indicate that the legislature ever intended to exempt an interest or right in property merely because the tract or building in question might otherwise be exempt. Pursuant to M.S.A. 272.01, all real and personal property is taxable except such as the law exempts from taxation. Nothing in that statute, or in succeeding statutory sections -- inclusive of the definitive provisions of § 272.03 -- justifies the inference that a property right or interest (whether it be divided or undivided) in realty is not taxable because such realty is otherwise exempt. All properties are presumed to be taxable. Freedom from taxation for a charitable purpose is founded on a proper charitable use and not on the basis of whether a property right or interest is interwoven with other rights or interests which enjoy exemption. In other words, liability or non-liability to taxation does not depend upon the ease or difficulty of segregating taxable interests from those which are not taxable.

Section 272.14, which provides for the recording of an instrument conveying an undivided part upon the payment of a proportional part of the taxes due on the parcel as a whole, clearly indicates that an undivided fractional share of a parcel may be taxed separately. It is true that this section refers to taxes which are already assessed and due; nevertheless, it does show that the tax burden on a single unit may be apportioned. As a practical matter, the tax upon a parcel obviously may be apportioned by the assessor as well as by the county auditor or other county official. The legislature through our redemption statutes (§§ 281.06-281.11) has authorized, and recognized the feasibility of, apportioning and determining the tax burden that should be allocated to any fractional portion of a single parcel, whether such fractional portion be divided or undivided. See, State ex rel. Central Hanover B. & T. Co. v. Erickson, 212 Minn. 218, 3 N.W.2d 231; In re Petition of S.R.A. Inc. 219 Minn. 493, 513, 514, 18 N.W.2d 442, 453, affirmed, 327 U.S. 558, 66 S. Ct. 749, 90 L. ed. 851.

The practicability of assessing and taxing a fractional or special interest in a parcel of land which is

otherwise exempt has been recognized by this court for a period of over 50 years. See, Pine County v. Tozer (1894) 56 Minn. 288, 57 N.W. 796, involving an appeal in a proceeding to enforce the payment of delinquent taxes for the year 1887 upon the right and interest of David Tozer, et al., in the standing timber upon a tract of land which was owned by a railroad as tax-exempt property. In that case, the railroad company by contract had sold to David Tozer, et al., the right to cut and remove from such tax-exempt land all merchantable pine timber thereon. The right to remove and dispose of timber was held to be a taxable property right though such right did not embrace the entire fee. It is true that the legislature had in that instance specifically directed that any estate or interest conveyed by a railroad company out of its tax-exempt lands should be taxable to the purchaser, but in no respect did the legislature provide any special machinery for assessing the value of a fractional or other special interest that might be so conveyed. In other words, it was assumed that any fractional right in such lands could be valued for taxation like other property. The feasibility of assessing for taxation fractional and undivided interests in real estate, without providing special statutory machinery therefor, has been recognized by the legislature with respect to mineral, gas, coal, oil, and other similar special interests in real estate owned separately and independently of the fee. See, §§ 272.04 and 272.05. If it were impractical to assess and determine the value of fractional or special interests in real estate, no doubt the legislature would have been called upon to provide a remedy at some time during the many years that have elapsed since the decision in Pine County v. Tozer was handed down in 1894.

Respondent also foresees difficulty in determining whether a portion of a building devoted primarily to a tax-exempt use (or a taxable use, as the case may be) is substantial. These forebodings of difficulty stem largely from a failure to consider the majority opinion as a whole in construing and applying the rule therein enunciated. The emphasis upon a phrase isolated from its context -- such as "rooms of a substantial size" -- naturally results in a distortion of the meaning of any opinion. What is a substantial portion of a building is a question of fact to be determined in the light of a reasonable, natural, and practical interpretation of that term. This question of fact is no more difficult of determination than the fact question of whether the use of certain property is primarily for revenue or for charity. As already indicated, our decision in State v. Pequot Rural Tel. Co. 188 Minn. 520, 247 N.W. 695, is an example of the practical manner in which a determination may be made as to whether a certain use is substantial. Forebodings of difficulty in application of the rule to YMCA, Salvation Army, and similar buildings are likewise equally unjustified. Whether dormitory and other rooms are reasonably necessary in meeting a need integrated with a program of a charitable or educational institution presents a problem that will be no more difficult in the future than it was in the Carleton College case. (See, footnote 9 of majority opinion.) It may be conceded that any rule of law, though it be wise and reasonable in all its terms, may be misapplied through sincere error or through an over-zealous and narrow application by those charged with its administration, but such isolated errors of application will in the future, as in the past, be subject to correction by the courts.

We have not failed to consider certain opinions of the attorney general to the contrary, but with them

we do not agree.