In Re Appeal of Eugene K. Martin

Commonwealth Court of Pennsylvania
830 A.2d 616 (August 2003)

Summary Prepared by Christie Hayes, Research Assistant

The Agricultural Law Resource and Reference Center
150 S. College Street, Carlisle, PA 17013
717-241-3517
aglaw@psu.edu
www.dsl.psu.edu/centers/aglaw.cfm

The issue decided in this case was whether roll-back taxes were due when an original Clean and Green parcel was separated into two tracts and a subsequent split-off from one of those tracts exceeded 10% of the tract from which it was split, but was less than 10% of the original parcel. The landowner argued that the Lancaster County Board of Assessment had erred by imposing taxes on the entire original parcel of land.

In this case, Samuel and Floy Martin owned 63 acres of land that were subject to preferential assessment under the Pennsylvania Farmland and Forest Land Assessment Act of 1974 (popularly known as the "Clean and Green Act"). Under the Act, roll-back taxes are not due for a *de minimis* split or for a separation. A *de minimis* split is defined as a tract that is no greater than 2 acres and does not exceed 10% of the entire tract subject to preferential assessment.

In 1999, Eugene Martin purchased 14 of the original 63 acres owned by Samuel and Floy Martin. Eugene Martin then obtained a preferential assessment for his 14 acres. However, Eugene Martin transferred 2 of his 14 acres to Amos Zook. Although a "separation" of land continues to receive preferential assessment under the Act, a "split-off" does not. A "separation" is defined as a "division of lands devoted to agricultural use, agricultural reserve or forest reserve and preferentially assessed under the provisions of this act, into two or more tracts of land, the use of which continues to be agricultural use, agricultural reserve or forest reserve." In contrast, a "split-off" is defined as a "division of lands devoted to agricultural use, agricultural reserve or forest reserve and preferentially assessed under the provisions of this act, into two or more tracts of land, the use of which does **not** continue to be agricultural use, agricultural reserve or forest reserve."

In 2000, Eugene Martin received a notice from the Lancaster Board of Assessment that roll-back taxes in the amount of $13,248 were due since his property no longer qualified for preferential assessment under the Act (the use of the 2 acre conveyance was not one of the three uses approved under the Act). This tax amount was calculated on the entire 63 acre parcel. The Board argued that Eugene Martin's conveyance to Zook had converted Zook's land acquisition from the Martins from a statutory separation – an event that preserves preferential assessment – into a split – an event that triggers the payment of roll-back taxes.

Litigation in this case revolved around statutory construction arguments from both sides. The Commonwealth Court of Pennsylvania concluded that "entire tract" may have one meaning for determining whether a split has occurred and another for calculating the amount of roll-back tax penalty owed. Although this may appear to be a harsh result for the landowner, the court concluded that Eugene Martin ". . . could have avoided them in one of two ways. First, he could have waited seven years before making a conveyance of a 2 acre tract. Second, he could have conveyed 1.4 acres, which would have qualified as a *de minimis* split exempt from the roll-back tax penalty."

As a result of this decision, the Commonwealth Court of Pennsylvania makes it clear that although the "Act's penalties may be draconian, they were the weapons chosen by the General Assembly to defend Pennsylvania's precious and ever-threatened farmlands and forests." Therefore, roll-back taxes were due on the entire original parcel.