

NO. CV 04 4000794S : SUPERIOR COURT
FRANK GULIA, JR., TRUSTEE : JUDICIAL DISTRICT OF
 : FAIRFIELD AT BRIDGEPORT
v.
CITY OF BRIDGEPORT, ET AL. : OCTOBER 31, 2008

MEMORANDUM OF DECISION
ON DEFENDANT’S MOTION TO DISMISS

The plaintiff, Frank Gulia, Jr., Trustee (Gulia) brings this three-count complaint claiming that the assessor for the city of Bridgeport (city) overvalued his premises at 86 Bostwick Avenue on the Grand Lists of October 1, 2003 and 2006.

The city has filed a motion to dismiss as to the first and third counts claiming that the court lacks subject matter jurisdiction to hear these counts pursuant to General Statutes § 12-117a. The city argues that the plaintiff failed to exhaust his administrative remedies because he did not appeal to the Board of Assessment Appeals (BAA).

The city recites the factual background in this case as follows:

“On October 1, 2003, the City’s tax assessor (‘Tax Assessor’) revalued the assessment of parcel 0320-21 located at 86 Bostwick Avenue (‘Real Property’) for the October 1, 2003 grand list (Exhibit A) per a citywide revaluation.

“On March 22, 2004, the City of Bridgeport Board of Assessment Appeals received a property assessment appeal application for the 2003 grand list (‘Appeal Application’) for the Real Property. The Appeal Application lists Frank J. Gulia as owner of the Real Property. The signature on the Appeal

Application reads ‘Frank Gulia.’ The position of the signer is checked off as ‘owner.’ The Appeal Application is attached as Exhibit B.

“By virtue of a deed dated July 7, 1975, the Real Property was quit claimed to ‘Frank Gulia, Jr., Trustee’ by Margaret Gulia and Frank Gulia (Exhibit C). Title to the Real Property does not stand in the name of Frank J. Gulia or Frank Gulia as owner in the City’s tax records. ***Title is held by Frank Gulia, Jr., Trustee.*** . . . Frank Gulia, Jr., Trustee did not appeal the assessment of the Real Property for the grand list of October 1, 2003 or at any time thereafter to the Board of Assessment Appeals. (See Exhibit D, affidavit of William O’Brien, Tax Assessor at ¶ 7).”

(Emphasis in original.) (Defendant’s September 8, 2008 memorandum of law, p. 2.)

The issue raised here is whether, for the purpose of a real property owner taking an appeal pursuant to General Statutes § 12-111, there is a distinction between the property being held in the name of Frank Gulia, Jr., Trustee and property being held in the name of Frank Gulia, Jr.

The titleholder of real property may appeal the valuation of an assessment pursuant to § 12-111.¹ For the purposes of an appeal thereunder, the owner, or the owner’s agent or

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Section 12-111 provides, in relevant part, that: (a) Any person . . . to whom title to such property has been transferred since the assessment date, claiming to be aggrieved by the doings of the assessors of such town may appeal therefrom to the board of assessment appeals. . . . The written appeal shall include, but is not limited to, the property owner’s name, name and position of the signer, description of the property which is the subject of the appeal, name and mailing address of the party to be sent all correspondence by the board of assessment appeals, reason for the appeal, appellant’s estimate of value, signature of the property owner, or duly authorized agent of the property owner, and date of signature.”

attorney, may prosecute the appeal to the BAA. See Trap Falls Realty Holding Limited Partnership v. Board of Tax Review, 29 Conn. App. 97, 101, 612 A.2d 814 (1992), citing Lerner Shops of Connecticut, Inc. v. Waterbury, 151 Conn. 79, 83, 193 A.2d 472 (1963).

Although the term “person” is defined in General Statutes § 12-1 as “any individual, partnership, company, limited liability company, public or private corporation, society, association, trustee, executor, administrator or other fiduciary or custodian[,]” clearly, the reference to “trustee” refers to the subsequent language “other fiduciary or custodian.” As defined in § 12-1, there is a difference between an “individual” and a “trustee” as a fiduciary.

However, the plaintiff’s use of the term “trustee” denoting a fiduciary, as in a trust relationship, was a superfluous addition to the name since Frank Gulia Jr.’s attorney represented to the court that there was no trust involved in this case.

Since no trust exists to support the use of the term “trustee” attached to the name Frank Gulia, Jr., the resolution of the issue in this case is governed by General Statutes

§ 47-20², which provides that the use of the word “trustee” or “agent” in an instrument affecting real estate is “as if those words had not been used.”

There is no merit to the city’s claim that Frank Gulia, Jr. and Frank Gulia, Jr., Trustee are two separate and distinct entities with respect to the ownership of property. The city cites to Hartford National Bank & Trust Co. v. Willard, 175 Conn. 372, 380, 398 A.2d 1186 (1978), for the proposition that a trustee holds title in his fiduciary capacity only and individually has no interest in the fee to the real estate. However, in the present case, there is no distinction between Frank Gulia, Jr. and Frank Gulia, Jr., Trustee since Frank Gulia, Jr., Trustee does not hold title by virtue of the provisions of any existing trust.

When Frank Gulia, Jr. appeared before the BAA in this case as Frank Gulia, Jr., he was appearing individually, as the owner of the property. Therefore, he was the proper person to take this appeal in compliance with § 12-111. Therefore, the city’s reference to the unreported decision in Posick v. Beacon Falls, Superior Court, judicial district of

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General Statutes § 47-20 provides, in relevant part, as follows: “The word “trustee” or “agent”, or the words “as trustee”, or words of similar meaning, following the name of the grantee in a duly executed and recorded instrument which conveys, transfers or assigns real estate or any interest therein, with or without the name of a cestui que trust or principal appearing and without any other language expressly limiting the powers, interest or estate of the grantee, do not, in the absence of a separate duly executed and recorded instrument defining the powers of the grantee, affect the right of the grantee to sell, mortgage or otherwise dispose of the real estate or interest therein in the same manner as if those words had not been used.”

Ansonia-Milford, Docket No. CV 96 054749 (November 18, 1996, *Flynn, J.*) (holding that a property owner who failed to appear at a board of tax appeals hearing, did not comply with General Statutes § 12-113), is unavailing because Frank Gulia, Jr. actually appeared before the BAA.

Accordingly, for the foregoing reasons, the defendant's motion to dismiss counts one and three for lack of subject matter jurisdiction is denied.

Arnold W. Aronson
Judge Trial Referee