

LEXSEE 169 F 3D 1001

GLORIA BYLINSKI, et al., Plaintiffs-Appellants, v. THE CITY OF ALLEN PARK, et al., Defendants-Appellees.

No. 98-1725

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

169 F.3d 1001; 1999 U.S. App. LEXIS 1221; 1999 FED App. 0092P (6th Cir.)

December 11, 1998, Argued

January 25, 1999, Decided

January 25, 1999, Filed *

*** This decision was originally issued as an "unpublished decision" filed on January 25, 1999. On March 5, 1999, the court designated the opinion as one recommended for full-text publication.**

SUBSEQUENT HISTORY: [**1] The Publication Status of this Document has been Changed by the Court from Unpublished to Published March 5, 1999.

Certiorari Denied June 24, 1999, Reported at: *1999 U.S. LEXIS 4461*.

PRIOR HISTORY: Appeal from the United States District Court for the Eastern District of Michigan at Detroit. No. 98-71289. John Feikens, District Judge.

DISPOSITION: AFFIRMED the judgment of the district court, as provided in its order and opinion denying plaintiffs' motion to remand, dated June 9, 1998, and its opinion and order granting defendants' motion for summary judgment of the same date.

CASE SUMMARY:

PROCEDURAL POSTURE: Plaintiff taxpayers sought review of a decision, by the United States District Court for the Eastern District of Michigan, denying plaintiffs' motion to remand to state court and granting summary judgment to defendant municipalities. The action originally brought by defendants sought a refund of certain taxes on the grounds that defendants lacked authority, under the Michigan Constitution, to levy those taxes without a vote of the citizenry.

OVERVIEW: In an action brought by plaintiff taxpayers alleging that defendant municipalities were without authority to collect certain tax levies, plaintiff appealed the trial court decision denying their motion to remand

to state court and granting summary judgment in favor of the defendants. The court held that plaintiffs' challenge to the consent decree, in which defendants were required to make cash contributions to update wastewater treatment facilities and remedy illegal discharges of raw sewage, was barred by the doctrine of laches. Defendants were able to show that the plaintiffs unreasonably delayed in bringing suit and that the defendants were prejudiced by the delay. Plaintiffs waited to initiate their action until after the municipal bonds to finance the treatment facilities had been authorized, issued, and sold. Plaintiffs had ample notice of the defendants' intent to implement the consent decree through financing agreements but did not file suit until after the first tax assessment. The plaintiffs' delay, given the funds previously expended and the near-completeness of the treatment project, prejudiced the defendants.

OUTCOME: The court affirmed the judgment of the trial court granting summary judgment in favor of defendant municipalities and denying plaintiff taxpayers' motion to remand to state court. The defendants were able to demonstrate plaintiffs' challenge to a consent decree and the consequent levy of certain taxes was barred by the doctrine of laches because plaintiffs unreasonably delayed in bringing their suit and defendants were prejudiced by the delay.

LexisNexis(R) Headnotes

Civil Procedure > Remedies > Extraordinary Writs
[HN1] See 28 U.S.C.S. § 1651(a).

Civil Procedure > Pleading & Practice > Defenses, Objections & Demurrers > Affirmative Defenses

[HN2] The doctrine of laches is an equitable principle that bars recovery in circumstances in which a plaintiff's delay in seeking a judicial remedy prejudices a defendant.

Civil Procedure > Pleading & Practice > Defenses, Objections & Demurrers > Affirmative Defenses

[HN3] To prevail, a party invoking the equitable principle of the doctrine of laches must show that plaintiffs unreasonably delayed in bringing suit and that defendants were prejudiced by this delay.

COUNSEL: ARGUED: Peter W. Macuga, II, MACUGA, SWARTZ & LITTLE, Detroit, Michigan, for Appellants.

R. Craig Hupp, BODMAN, LONGLEY & DAHLING, L.L.P., Detroit, Michigan, for Appellees.

ON BRIEF: Peter W. Macuga, II, MACUGA, SWARTZ & LITTLE, Detroit, Michigan, for Appellants.

R. Craig Hupp, Charles N. Raimi, BODMAN, LONGLEY & DAHLING, L.L.P., Detroit, Michigan, Edward M. Zelenak, Lincoln Park, Michigan, for Appellees.

JUDGES: Before: NELSON, SILER, and DAUGHTREY, Circuit Judges.

OPINIONBY: MARTHA CRAIG DAUGHTREY

OPINION: [***2]

[*1002] OPINION

MARTHA CRAIG DAUGHTREY, Circuit Judge. [**2] This class action suit was brought originally in state court by a group of disgruntled taxpayers seeking a refund of taxes paid and an injunction against further taxation by the defendant municipalities, based on the plaintiffs' claim that the defendants lacked authority to levy taxes without the referendum required by a recent amendment to the Michigan state constitution. The defendants removed the action to federal court, on the ground that the taxes in question had been levied pursuant to a federal consent decree entered four years earlier. Because the district court found that it had continuing jurisdiction under the consent decree, the court denied the plaintiffs' motion to remand to state court and granted summary judgment to the defendants on the merits. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

In 1994, the district court entered a consent decree in an action brought by the State of Michigan and the United States Environmental Protection Agency under

the Clean Water Act, [***3] 33 U.S.C. §§ 1251 et seq., to remedy illegal discharges of raw sewage and other pollutants into Michigan waterways. Pursuant to that decree, Wayne County [***3] and certain down-river communities were directed to make cash contributions to a fund to update wastewater treatment facilities. The decree also effectively provided that communities unable to make the mandated payments would be required to increase taxes in order to meet their assessments. When a number of the municipalities were forced to levy taxes to ensure compliance with the court order, the citizen plaintiffs initiated this suit in Michigan state court for a refund of their increased tax payments and to enjoin further tax collections. The suit, however, was not filed until four years after entry of the consent decree in the federal action and three years after implementation of the actual tax levies. By that time, the renovation projects were 85 percent completed or contracted, and approximately \$220 million in bonds had already been sold.

The defendant communities successfully removed the suit to federal court, alleging that the subject matter of the state court action was inextricably intertwined with the viability of the district court's 1994 consent decree. The district court granted summary judgment in favor of the defendants on the taxpayers' claims that the tax levies [**4] violated provisions of the Michigan constitution, finding (1) that the challenge to the constitutionality of the tax levies was barred by laches, (2) that the court had inherent power to enforce its judgments, and (3) that the Michigan state constitutional provision invoked by the plaintiffs was not applicable to the tax levies in question, because they were authorized under state statutes that predated the amendment to the state constitution.

ANALYSIS

Before this court, the plaintiffs contend that the district court erred both in denying their motion for remand and in ordering the municipalities to raise taxes without a vote of the [***4] citizenry, allegedly in violation of a "tax revolt" provision of the state constitution.

A. Jurisdiction

The district court correctly noted that implementation and enforcement of compliance with the 1994 consent decree gave it continued jurisdiction over the financing agreements that constituted an integral part of the order, citing *Vanguards of Cleveland* [*1003] v. *City of Cleveland*, 23 F.3d 1013, 1018 (6th Cir. 1994). The court further found that the instant suit "poses an imminent threat to [**5] the integrity of the Financing Orders because it could adversely affect the financing mechanism in those orders." We agree.

We also agree that the district court correctly invoked

28 U.S.C. § 1651(a), the All Writs Act, which gives federal courts the "[HN1] authority to remove an otherwise unremovable state court case in order to effectuate and prevent the frustration of orders it has previously issued in its exercise of jurisdiction otherwise obtained." *In re Agent Orange" Prod. Liab. Litig.*, 996 F.2d 1425, 1431 (2d Cir. 1993) (internal quotation marks omitted). It follows that the district court did not err in denying the plaintiffs' motion to remand to state court.

B. Application of the Doctrine of Laches

In a detailed and well-reasoned opinion, the district court ordered summary judgment for the defendants on three alternative bases. Because we conclude that the challenge to the consent decree is barred by the doctrine of laches, we find it unnecessary to reach the question of the district court's inherent authority to order the levy of taxes in this case, and we decline to interpret the scope of the Michigan Constitution, an exercise [**6] better left to the Michigan state courts.

[HN2] The doctrine of laches is an equitable principle that bars recovery in circumstances in which a plaintiff's delay in [***5] seeking a judicial remedy prejudices a defendant. [HN3] To prevail, a party invoking this equitable principle "must show that plaintiffs unreasonably delayed in bringing suit and that [defendants] were prejudiced by this delay." *Environmental Defense Fund v. Tennessee Valley Auth.*, 468 F.2d 1164, 1182 (6th Cir. 1972). In this

case, the district court found that the plaintiffs had waited to initiate their action until after the municipal bonds to finance the court-ordered sewer project had been authorized, issued, and sold. As noted above, by the time the hearing occurred, the project was 85 percent complete, at a cost of over \$200 million. The court further found that the plaintiffs had had ample notice of the defendants' intent to implement the consent decree through the financing agreements contained in that order and yet did not file suit until three years after they received their first assessment. Finally, the court found that the defendants were obviously prejudiced by the delay, given the outlay [**7] of funds already expended and the near-completeness of the entire project. With this conclusion, we also agree.

CONCLUSION

After a careful review of the briefs and the record in this case, and having had the benefit of oral argument, we are not persuaded that the district court erred in retaining jurisdiction and in deciding that the action was barred by laches. Moreover, because the reasons for dismissing the complaint against the defendants were fully articulated in the district court's opinions, we conclude that the issuance of another detailed opinion is unnecessary to the correct determination of this appeal. We therefore AFFIRM the judgment of the district court, as provided in its order and opinion denying plaintiffs' motion to remand, dated June 9, 1998, and its opinion and order granting defendants' motion for summary judgment of the same date.