

OPINIONS OF THE SUPREME COURT OF OHIO

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Rocco, Appellant, v. Cuyahoga County Board of Revision et al., Appellees.

[Cite as Rocco v. Cuyahoga Cty. Bd. of Revision (1994), Ohio St.3d .]

Taxation -- Real property valuation -- Board of Tax

Appeals decision not overruled by court, when -- Taxpayer has duty to prove right to a reduction in value.

(No. 93-1455 -- Submitted September 9, 1994 -- Decided December 7, 1994.)

Appeal from the Board of Tax Appeals, No. 92-J-871.

Appellant, John M. Rocco, dissatisfied with the Cuyahoga County Board of Revision's determination of value of property he owned in Cleveland, appealed to the Board of Tax Appeals ("BTA").

At the BTA, the parties waived an evidentiary hearing and stipulated that the statutory transcript would constitute the record before the BTA.

The BTA affirmed the board of revision's valuation of \$38,000 for 1991, and appellant appealed.

This cause is now before the court upon an appeal as of right.

Stanley L. Josselson, for appellant.

Stephanie Tubbs Jones, Cuyahoga County Prosecuting Attorney, and Timothy J. Kollin, Assistant Prosecuting Attorney, for appellees.

Per Curiam. We affirm the decision of the BTA.

The BTA found that the evidence before it included a conveyance fee statement of March 19, 1990, indicating a consideration of \$38,000 for transfer of the property. There was no evidence before the BTA to suggest that the transfer was other than an arm's-length transaction.

"The fair market value of property for tax purposes is a question of fact, the determination of which is primarily within the province of the taxing authorities, and this court will not disturb a decision of the Board of Tax Appeals with respect to such valuation unless it affirmatively appears from

the record that such decision is unreasonable or unlawful." Cardinal Fed. S. & L. Assn. v. Cuyahoga Cty. Bd. of Revision (1975), 44 Ohio St.2d 13, 73 O.O.2d 83, 336 N.E.2d 433, paragraph four of the syllabus. See, also, Crow v. Cuyahoga Cty. Bd. of Revision (1988), 50 Ohio St.3d 55, 552 N.E.2d 892.

The BTA, citing Zindle v. Summit Cty. Bd. of Revision (1989), 44 Ohio St. 3d 202, 542 N.E.2d 650, observed that "[t]he burden is upon the party seeking a reduction to prove his right to the reduction in value."

Appellant did not sustain his burden. The BTA's decision, being neither unreasonable nor unlawful, is affirmed.

Decision affirmed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.