

[Cite as *Bowman v. Bd. of Revision*, 2011-Ohio-311.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94311

TED BOWMAN

PLAINTIFF-APPELLANT

vs.

BOARD OF REVISION, ET AL.

DEFENDANTS-APPELLEES

JUDGMENT:
REVERSED AND REMANDED

Civil Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CV-693712

BEFORE: Cooney, J., Celebrezze, P.J., and Jones, J.

RELEASED AND JOURNALIZED: January 27, 2011

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COLLEEN CONWAY COONEY, J.:

{¶ 1} Plaintiff-appellant, Ted Bowman (“Bowman”), appeals the trial court’s dismissal of his appeal from a decision by the Cuyahoga County Board of Revision (“Board”). The Board concedes the error, and therefore, we reverse and remand.

{¶ 2} Bowman filed a real estate tax complaint with the Board, requesting that the value of his vacant lot in Olmsted Falls, parcel # 291-10-007, be reduced.

At the time the complaint was filed, the lot was valued at \$178,000. In February 2009, a hearing was held before the Board. Bowman presented

evidence that the lot's value should be reduced to \$37,400. The county auditor reduced the value of the lot to \$78,400.

{¶ 3} Bowman properly appealed the Board's decision to the court of common pleas. The docket reflects that on June 1, 2009, Bowman filed a cassette tape recording of the hearing. The docket is silent in regard to whether either party filed a "transcript" of the proceedings, but the Board claims that it filed the transcript on June 1, 2009.

{¶ 4} On September 8, 2009, the court issued an order for Bowman to file a transcript before September 18, 2009 and a brief before October 8, 2009. Bowman did not file a transcript. On October 28, 2009, the court dismissed Bowman's appeal pursuant to its order.

{¶ 5} Bowman now appeals, raising three assignments of error.

{¶ 6} In his first assignment of error, Bowman argues that the trial court erred as a matter of law by dismissing his appeal. The Board concedes, and this court agrees.

{¶ 7} R.C. 5717.05, which governs appeals from a county board of revision to the court of common pleas, states:

"As an alternative to the appeal provided for in section 5717.01 of the Revised Code, an appeal from the decision of a county board of revision may be taken directly to the court of common pleas of the county by the person in whose name the property is listed or sought to be listed for taxation. The appeal shall be taken by the filing of a notice of appeal with the court and with the board within thirty days after notice of the decision of the board is mailed as provided in section 5715.20 of the Revised Code.

“* * *

“Within thirty days after notice of appeal to the court has been filed with the county board of revision, *the board shall certify to the court a transcript of the record of the proceedings* of said board pertaining to the original complaint and all evidence offered in connection with that complaint.” (Emphasis added.)

{¶ 8} R.C. 5717.05 clearly mandates that the Board shall provide the court with a transcript, not the appealing taxpayer. The common pleas court, however, appears to have followed its Local Rule 28 by ordering Bowman to file a transcript. Local Rule 28 states:

*“Except as otherwise provided by specific rules or statutes, * * * [a] case filed by way of appeal from administrative agencies, except Workers’ Compensation cases, shall be governed by the same procedure.*

“* * *

“(A) Within twenty (20) days after the filing of a complete transcript * * * with the Clerk of Common Pleas Court, appellant shall file his assignments of error and brief.” (Emphasis added.)

{¶ 9} The common pleas court erred as a matter of law in applying Local Rule 28 when R.C. 5717.05 controls all appeals from the Board of Revision. The responsibility of providing the court with a transcript lies with the Board. Therefore, the court erred in dismissing Bowman’s appeal.

{¶ 10} Thus, the first assignment of error is sustained.

{¶ 11} Given our disposition of the first assignment of error, we find the remaining assignments of error challenging the court's dismissal as an abuse of discretion and the court's failure to evaluate the property, to be moot.

{¶ 12} Accordingly, the judgment is reversed, and the case is remanded.

It is ordered that appellant recover of said appellee costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

COLLEEN CONWAY COONEY, JUDGE

FRANK D. CELEBREZZE, JR., P.J., and
LARRY A. JONES, J., CONCUR