

STATE OF MICHIGAN
COURT OF APPEALS

BEN ALLI and SHAKI ALLI,

Petitioners-Appellants,

and

BASA FAMILY LIMITED PARTNERSHIP,

Petitioner,

v

DEPARTMENT OF TREASURY,

Respondent-Appellee.

UNPUBLISHED
October 10, 2017

No. 333915
Tax Tribunal
LC No. 15-004944-TT

Before: TALBOT, C.J., and O'CONNELL and O'BRIEN, JJ.

PER CURIAM.

Petitioners, Ben Alli and Shaki Alli,¹ appeal as of right a judgment of the Michigan Tax Tribunal (MTT). The MTT concluded that the Allis were not entitled to a principal residence exemption for the 2013 and 2014 tax years because they quitclaimed their ownership interest in the property to the BASA Family Limited Partnership (BASA Family LP) in 2012. We affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND

The Allis, husband and wife, are the general partners of BASA Family LP. The Allis lived at the property in issue since 1994. In July 1999, BASA Family LP sold the property to the Allis by means of a land contract. In February 2006, BASA Family LP quitclaimed its interest in the property to the Allis. In 2009, the Allis successfully petitioned for a personal residence exemption for the 2006 and 2007 tax years.

In March 2012, the Allis quitclaimed their interest in the property back to BASA Family LP. In August 2014, the Department of Treasury denied BASA Family LP the personal

¹ The BASA Family Limited Partnership is not a party to this appeal.

residence exemption for the 2013 and 2014 tax years because the partnership was not an individual and, thus, not an owner. The Allis challenged this decision, arguing that they were the owners.

The MTT determined that the Allis were not the owners of the property because the most recent deed, dated March 2012, showed that BASA Family LP owned the property. Thus, the MTT concluded, the Allis were not the owners and not eligible for the personal residence exemption for the 2013 and 2014 tax years.

II. ANALYSIS

On appeal, the Allis argue that the MTT erred by determining that they were not entitled to the personal residence exemption for the 2013 and 2014 tax years. We disagree.

Absent fraud, we review a decision of the MTT for “misapplication of the law or adoption of a wrong principle.” *EldenBrady v City of Albion*, 294 Mich App 251, 254; 816 NW2d 449 (2011) (citation and quotation marks omitted). Fact findings are conclusive if supported by “competent, material, and substantial evidence on the whole record.” *Benedict v Dep’t of Treasury*, 236 Mich App 559, 563; 601 NW2d 151 (1999) (citation omitted). We review matters of statutory interpretation de novo. *EldenBrady*, 294 Mich App at 254.

This Court interprets statutes to effectuate the Legislature’s intent by applying the language of the statute. *Benedict*, 236 Mich App at 563. We follow the language of the statute when it is clear and unambiguous. *Id.* When it is ambiguous, judicial interpretation is appropriate. *Id.*

Because a tax exemption is an exception to the general rule of taxation, this Court will not infer an exemption from ambiguous language or extend an exemption beyond its statutory terms. *EldenBrady*, 294 Mich App at 255. Similarly, this Court strictly construes a claimed exemption in favor of the public rather than the property owner. *Id.*

A tax exemption is available to the owner of a principal residence. MCL 211.7cc(1). The owner claims the exemption by filing an affidavit stating that the owner owns and occupies the property as a principal residence. MCL 211.7cc(2). Therefore, the plain language limits the personal residence exemption, also called a homestead exemption, to an owner. *VanderWerp v Plainfield Charter Twp*, 278 Mich App 624, 629; 752 NW2d 479 (2008).

The parties dispute the Allis’ ownership of the property after they executed the quitclaim deed in March 2012, transferring their interest in the property to BASA Family LP. A quitclaim deed conveys the grantor’s full interest in the property unless expressly stated or reserved. *Eastbrook Homes, Inc v Dep’t of Treasury*, 296 Mich App 336, 349; 820 NW2d 242 (2012). In this case, the March 2012 quitclaim deed conveying the Allis’ interest in the property to BASA Family LP did not reserve to the Allis any of the property rights conveyed in the 1999 land contract or the 2006 quitclaim deed. Consequently, when the Allis quitclaimed their interest in the property to BASA Family LP in March 2012, they ceased to be the owners of the property.

Further, BASA Family LP is not entitled to a personal residence exemption. Pertinent to this appeal, MCL 211.7dd(a)(i) defines an owner as a “person who owns property or who is

purchasing property under a land contract.” As it relates to section 7cc, a person is “an individual[.]” MCL 211.7dd(b), i.e., “ ‘a single human being[.]’ ” *VanderWerp*, 278 Mich App at 630 n 3, quoting *Random House Webster’s College Dictionary* (2001). By contrast, § 7dd(b) includes business entities in the definition of an owner who can claim the qualified agricultural property tax exemption in § 7ee. When a statutory definition applies to one part of the statute but not another, courts presume that the Legislature intentionally made this distinction. See *People v Peltola*, 489 Mich 174, 185; 803 NW2d 140 (2011). Accordingly, the definition of an owner eligible for a personal residence exemption under § 7cc does not include business entities. Relying on this distinction, this Court has concluded that a limited liability corporation was not eligible for the homestead exemption because it was not an individual. *VanderWerp*, 278 Mich App at 630-631.

Likewise, in this case, BASA Family LP was not an individual. In addition, BASA Family LP was not a grantor that placed the property in a revocable trust, the sole beneficiary of a trust, a cooperative housing corporation, or a registered continuing care facility. MCL 211.7dd(a)(vi) through (ix). Thus, BASA Family LP was not an owner eligible for the personal residence exemption.

The Allis contend that *EldenBrady*, 294 Mich App 251, supports their claim for an exemption because the question is whether the owner occupied the property. In *EldenBrady*, 294 Mich at 259-260, this Court concluded that the taxpayers were eligible for the personal residence exemption for a 10-acre parcel, despite the presence of an abandoned school building on that parcel, because the land was unoccupied, contiguous to the taxpayers’ dwelling, and zoned residential. This case, however, turns on ownership, not occupation. The Department of Treasury protested the Allis’ ownership of the property but did not contest that they occupied it. Because the Allis transferred their ownership interest in the property to BASA Family LP in March 2012, the MTT properly determined that the Allis were not owners of the property and were not eligible for a personal residence exemption in subsequent tax years.

Finally, the Allis maintain that the Department of Treasury is estopped from denying the exemption because it previously granted them the exemption on the same property. The Allis have abandoned this argument because they neither developed it nor supported it with relevant authority. See *People v Matuszak*, 263 Mich App 42, 59; 687 NW2d 342 (2004). In any event, their contention is without merit. Equitable estoppel requires a party to conceal or falsely represent a material fact to induce another party’s reliance, causing prejudice to the relying party if the concealing party later takes a different position. *Adams v Detroit*, 232 Mich App 701, 708; 591 NW2d 67 (1998). The Allis have identified no concealment or false representation in the Treasury Department’s taxation of the property. Further, the Allis erroneously assert that the facts have not changed, ignoring the significance of the March 2012 quitclaim deed transferring the Allis’ ownership interest in the property to BASA Family LP.

We affirm.

/s/ Michael J. Talbot
/s/ Peter D. O’Connell
/s/ Colleen A. O’Brien