Buffalo Law Review

Volume 9 | Number 1 Article 40

10-1-1959

Constitutional Law—Validity of Amended Zoning Classification

Buffalo Law Review

pletely ignore them. The procedure as approved by the majority would, he indicated, render the statute unconstitutional as an invalid delegation of legislative authority. If the Legislature were itself classifying this same segment of water and in so doing, certified that it had not considered fiscal problems, the classification could not stand. In effect this would be judging without considering all relevant factors. Thus, he concluded that the Legislature cannot delegate authority to a board to make a judgment which it cannot itself make.

This case was one of first impression and it was resolved on the basis of statutory interpretation. The majority and the minority both looked at the language of Section 1209 and arrived at opposite conclusions. They agreed that the regulation of water pollution is within the state's police power but the majority was controlled by the practical aspects of the situation. The Water Pollution Control Board is confronted with the complex problem of classifying all the waters of the State. These classifications are adopted only after public hearings at which interested parties may present evidence bearing on the classifications.[64] If the Board is required to consider fiscal questions at these hearings, it would be confronted with a barrage of documents relative to the financial ability of the municipal units of the State. Such a procedure would frustrate the operation of the Board.

VALIDITY OF AMENDED ZONING CLASSIFICATION

The New York Village Law authorizes village trustees to classify property within their boundaries so as "to regulate and restrict . . . the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population. . . ."[65] These regulations are to be "made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality."[66] There is no question that such a grant of general authority is constitutional if it is exercised in the interest of public health, safety, morals, or general welfare.[67]

In *Levitt v. Sands Point*[68] petitioner claimed that an amendment to local zoning regulations raising the minimum lot area for single family detached dwellings from one to two acres was unconstitutional in that it was unreasonable as it related to the property in question, and that it deprived him of property without compensation and due process of law because it depreciated his property value. The Supreme Court had entered judgment on a decision by a Referee that the ordinance in question was unconstitutional; the Appellate Division reversed;[69] and the Court of Appeals affirmed the reversal.

64. *Supra* note 58 § 1208(3), (9)(b).
65. N.Y. VILLAGE LAW § 175.
66. *Id.* § 177.
67. Euclid v. Ambler Realty Co., 272 U.S. 365 (1926). See Nectow v. Cambridge, 277 U.S. 183 (1928); Seattle Trust Co. v. Roberge, 278 U.S. 116 (1928).
68. 6 N.Y.2d 269, 189 N.Y.S.2d 212 (1959).
69. 6 A.D.2d 701, 174 N.Y.S.2d 283 (2d Dep't 1958).

The Appellate Division would have denied the petitioner relief because he had not exhausted his administrative remedy by applying for a variance, as well as on the constitutional grounds. The Court of Appeals, however, denied the exhaustion ground, but agreed on the constitutional question.[70]

A classification made by a proper zoning agency is a legislative judgment to which a presumption of validity attaches. Therefore, a party attacking such a determination has the burden of showing that that classification was invalid. The nature of this presumption is such that if the validity of the classification is even fairly debatable it will still stand.[71] The property here in question consisted of rolling, partly wooded land in an attractive rural-residential community. Evidence presented by the petitioner admitted that the reasonableness of the regulation was debatable, and this admission coupled with the nature of the area and the property in question caused the Court to hold that petitioner had not made a sufficient showing to overcome the presumption of validity.[72]

Petitioner had subdivided his 127 acres of property into one acre plots and claimed that the amended zoning regulation caused a depreciation in the value of his property and that it thus constituted an uncompensated taking. It has, however, been held that the mere lessening of property value by a classification of this nature does not make that classification unconstitutional.[73] In fact, a classification is not unconstitutional on this ground unless the property can no longer be used for any purpose to which it is adapted.[74] Both the Referee and the Appellate Division in the instant case found that under the two acre limit the property could still be used for purposes to which it was adapted. Thus, petitioner failed to show that the amendment of the Sands Point zoning regulations was an invalid exercise of the power granted to the trustees.

VALIDITY OF ELECTION LAW PROVISION ON ELIGIBILITY TO NOMINATE

Article 1 Section 1 of the New York Constitution states that "No member of this state shall be disfranchised, . . . unless by the law of the land, or the judgment of his peers." The courts have interpreted this provision to include

70. Concerning the exhaustion of remedies the Court indicated that petitioner was not seeking relaxation of the ordinance but determination of its constitutionality and for that reason a variance had no bearing. In addition, a previous case had held that the Board had no power to grant the relief requested under the guise of a variance. See Levy v. Board of Standards and Appeals, 267 N.Y. 347, 196 N.E. 284 (1935).

71. Euclid v. Ambler Realty Co., *supra* note 67; Shepard v. Village of Skaneateles, 300 N.Y. 115, 89 N.E.2d 619 (1949).

72. A number of cases have held similar zoning classifications constitutional as they related to rural-residential communities. Dillard v. North Hills, 276 App. Div. 969, 94 N.Y.S.2d 715 (1950) two acres; Flora Realty and Investment Co. v. Ladue, 262 Mo. 1025, 246 S.W.2d 771, *appeal dismissed* 344 U.S. 802 (1952) three acres; Senior v. Zoning Comm'n of New Canaan, 146 Conn. 531, 153 A.2d 415 (1959) four acres; Fischer v. Tp. of Bedminster, 11 N.J. 194, 93 A.2d 378 (1952) five acres.

73. Wulfsohn v. Burden, 241 N.Y. 288, 150 N.E. 120 (1925).

74. Averne Bay Constr. Co. v. Thatcher, 278 N.Y. 222, 15 N.E.2d 587 (1938); Osborn v. East Hampton, — Misc. —, 61 N.Y.S.2d 142, *aff'd* 271 App. Div. 837, 66 N.Y.S.2d 646 (2d Dep't 1925).