

BOARD OF TRUSTEES V. SEDILLO, 1922-NMSC-027, 28 N.M. 53, 210 P. 102 (S. Ct. 1922)

**BOARD OF TRUSTEES OF TOWN OF TOME
vs.
SEDILLO, County Treasurer, et al.**

No. 2626

SUPREME COURT OF NEW MEXICO

1922-NMSC-027, 28 N.M. 53, 210 P. 102

March 20, 1922

Appeal from District Court, Valencia County; Owen, Judge.

Suit by the Board of Trustees of the Town of Tome against Bernardo Sedillo, Treasurer of the County of Valencia, and another, Assessor thereof, to enjoin the defendants from attempting to collect a tax within a community grant. From a judgment dismissing the complaint, plaintiff appeals.

SYLLABUS

SYLLABUS BY THE COURT

(1) The lands within the community grant of the town of Tome are not exempt from taxation, under article 8, § 7, of the Constitution of New Mexico. *State v. Board of Trustees of Las Vegas* (No. 2506), followed. P. 54

(2) The organization of the town of Tome **held** not included within the term "other municipal corporations" in Const. art. 8, § 7, relating to exemption from taxation. P. 54

COUNSEL

Frank W. Clancy, of Santa Fe, for appellant.

Harry S. Bowman, Atty. Gen., and A. M. Edwards, Asst. Atty. Gen., for appellees.

JUDGES

Raynolds, C. J. Parker, J., and Bratton, District Judge, concur. Davis, J., did not participate.

AUTHOR: RAYNOLDS

OPINION

{*53} {1} OPINION OF THE COURT This suit was brought by the board of trustees of the town of Tome, to enjoin the {*54} treasurer and assessor of Valencia county from attempting to collect a tax on the land within a community grant of the town of Tome. Demurrer to the complaint was sustained by the lower court, and, plaintiff declining to plead further, judgment of dismissal was entered. The plaintiff appealed from this judgment.

{2} The sole question involved is that as to whether or not the complaint states a cause of action. The town of Tome was incorporated under Laws 1891, c. 86, and C. L. 1897, §§ 2148 to 2184, inclusive.

{3} It is urged by the appellant that the town of Tome is either a town or a municipal corporation, within the language of article 8, § 7, of the Constitution, and as such town or municipal corporation it is exempt from taxation.

{4} We are unable to agree with either contention of appellant. The language of the act, under which the so-called town of Tome was incorporated, shows clearly that it was not such a body politic as contemplated by the Constitution. It is not an agency or branch of the state government. Such cities and towns as are mentioned in the article of the Constitution referred to are those contemplated by section 3532, Code 1915, which act was originally Laws 1884, c. 39, § 12, and the article does not contemplate the incorporation of a community land grant, such as the appellant.

{5} As to the second proposition, that such an organization as the town of Tome is included within the term "other municipal corporations," the case of State v. Trustees of the Town of Las Vegas 28 N.M. 237, 210 P. 101, is controlling and the same rules of construction as to the taxation and exemption therefrom apply.

{6} For the reasons above stated, the decision of the lower court is affirmed; and it is so ordered.