

<b>GOODNER V. STATE TAX COMM'N, 1962-NMSC-098, 70 N.M. 300, 373 P.2d 540 (S. Ct. 1962)</b>
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**O. H. GOODNER and Z. W. Hutcheson, Plaintiffs-Appellees,  
vs.  
The STATE TAX COMMISSION of the State of New Mexico, and  
Mike Gallegos; Mike Apodaca and D. D. Monroe,  
Commissioners thereof, and Stella Romero,  
Treasurer of Santa Fe County,  
Defendants-Appellants**

No. 7081

SUPREME COURT OF NEW MEXICO

1962-NMSC-098, 70 N.M. 300, 373 P.2d 540

July 26, 1962

Suit to strike 10-year assessment of omitted property. The District Court, Santa Fe County, James M. Scarborough, D.J., granted the relief sought, and the tax commission appealed. The Supreme Court, Carmody, J., held that owners had adequate remedy at law by paying amount of taxes assessed under protest and thereafter suing thereon and were not entitled to equitable relief.

**COUNSEL**

Earl E. Hartley, Atty. Gen., Adolf J. Krehbiel and John W. Shaver, Sp. Asst. Attys. Gen., Santa Fe, for appellants.

Charles B. Barker, Santa Fe, for appellees.

**JUDGES**

Carmody, Justice. Compton, C.J., and Chavez, J., concur. Moise and Noble, JJ., not participating.

**AUTHOR:** CARMODY

**OPINION**

{\*300} {1} Appellees sought and obtained from the trial court equitable relief striking a ten-year assessment of omitted property.

**{2}** The case is controlled by General Tel. Co. of Southwest v. State Tax Comm., 1962, 69 N.M. 403, 367 P.2d 711; and State ex rel. State Tax Comm. v. First Judicial District Court, 1961, 69 N.M. 295, 366 P.2d 143. Appellees have an adequate remedy at law by paying the amount of the taxes assessed, under protest, and thereafter instituting suit thereon.

**{3}** The cause is reversed, with instructions to the district court to set aside its judgment and dismiss the proceeding.

**{4}** IT IS SO ORDERED.