Note: In the case title, an asterisk (*) indicates an appellant and a double asterisk (**) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2020-245

MAY TERM, 2021

Marjorie W. Johnston* v. City of Rutland	}	APPEALED FROM:
	}	
	}	Superior Court, Rutland Unit,
	}	Civil Division
	}	
	}	DOCKET NO. 514-10-17 Rdcv
		Trial Judge: Robert A. Mello

In the above-entitled cause, the Clerk will enter:

Marjorie Johnston appeals pro se from the trial court's valuation of her property at 50 Pine Street in Rutland, Vermont, for purposes of the 2017 Grand List. She raises numerous arguments. We affirm.

Following an August 2020 hearing, the trial court made the following relevant findings. The parties agreed that the property was worth $52,300 in 2017. Appellant argued that this valuation should be reduced by $1000 because of certain rights that she purportedly granted son in the property. She also argued the City of Rutland should have treated her property as contiguous to, and therefore part of, other properties she owned on and near Pine Street. The court rejected both arguments.

Appellant's property at 50 Pine Street consists of an old two-story house with a small 21' x 22' shed/garage located on 0.09 acres of land. In 2017, the Board of Civil Authority assessed the property's fair market value (FMV) at $52,300, $1000 of which it attributed to the shed.

Two years earlier, in December 2015, appellant signed and delivered to son a document entitled "Perpetual Lease Agreement" (PLA) that purportedly granted son certain "perpetual leaseholder rights" retroactive to April 2005. This included the right to "1/4th of the shed on the lot known as 50 Pine St." The portion of the shed subject to this right was not defined, and no right of access to the shed was provided. The agreement stated that "[t]he lease lasts as long as the trees grow and the water continues to flow" and expressed the intent to allow son "to maintain such lease for the amount of a penny a year." The lease was sworn to before a notary public, but it does not contain a notary's certification that appellant acknowledged it to be her free act and deed as required by 27 V.S.A. § 342. The agreement was recorded in the City's land records; a property transfer tax return indicated that son paid nothing for the "perpetual lease." The court found that the agreement did not appear to have any legitimate business or estate planning purpose. Instead, its purpose appeared to be to complicate the City's ability to perform its proper statutory taxing duties.

In January 2020, a Rutland City Property Valuation Hearing Officer found the FMV and listed value of each of the nine PLAs was zero. The hearing officer concluded that "if a lease ha[d] no FMV there [was] no property tax to be assessed."

Appellant claimed that under 32 V.S.A. § 3610, the City was required to appraise the value of son's leasehold interest even if that value was "close to zero," to set that value and interest in the grand list, and to tax him rather than her for that interest. The court concluded that son was not a "perpetual leaseholder" for purposes of § 3610.

Among other reasons, the court found that to qualify for treatment as a "perpetual lease" under § 3610, the lease must have a market value and must be capable of being sold. The court explained that this was because the statute required that "the appraised value of each perpetual lease . . . shall be its market value as determined by the listers or appraisers," id. § 3610(c), and the lease must be "subject to sale in the same manner and subject to the same procedures . . . as in the case of tax sales of real estate," id. § 3610(i). The court found that son's PLA had no market value and could not be sold.

The court found that while the lease purported to grant son one-quarter of the shed or garage, it did not describe where this interest was located nor did the lease include any right of access to the shed. The court questioned who would invest in an unspecified garage or storage space to which he or she would have no guaranteed right of access. Given these shortcomings, the court found that the lease had no market value and could not be sold at a tax sale or otherwise. The court found its conclusion consistent with the City's assessment that son's leasehold interest had a value of $0 and with the fact that son paid appellant $0.00 for the PLA and paid appellant "one penny a year" in rent. It thus concluded that, even if the value of son's purported leasehold interest fell within the scope of § 3610, the value of his purported interest would be zero. Thus, appellant was not entitled to a $1000 reduction in her tax liability based on son's PLA.

The court also discussed other issues not raised by appellant on appeal. Ultimately, it concluded that appellant's property should be listed at $52,300.

The question before us is whether the trial court erred in determining the correct valuation of the subject property. See 32 V.S.A. § 4467 (stating that, in appeals under § 4467, trial court is charged with "determin[ing] the correct valuation of the property"). We will affirm the court's conclusions "where they are reasonably drawn from the evidence presented." In re Bilmar Team Cleaners, 2015 VT 10, ¶ 8, 198 Vt. 330 (quotation omitted). "We defer to the superior court's determinations with regard to evidentiary credibility, weight, and persuasiveness." Id.

With this in mind, we turn to appellant's arguments that relate to the valuation of the 50 Pine Street property.[*] Appellant argues that son's PLA in one-quarter of the shed should have been included in the grand list and its value deducted from the assessment of her property. She maintains that the City violated 32 V.S.A. § 3610 by failing to do so and that the trial court failed

[*] Appellant raises various arguments that are irrelevant to the question before us. This includes her arguments that: son should be listed as a party; all of son's PLAs should be included in the grand list; the court should have made reference to a 2017 decision by a Property Valuation and Review hearing officer concerning son's nine PLAs (though apparently not to the hearing officer's determination that they had no value); appellant's various property tax assessment appeals should be considered in order; and the City is forever barred from changing the fair market value of son's PLA or selling the property at a tax sale if the PLAs have no value.

to consider § 3610 and other statutes relevant to the PLA. Appellant argues that the PLA is legally valid and that the City lacks standing to challenge its validity.

We find no error. Assuming for the sake of argument only that son's PLA in one-quarter of a shed on 50 Pine Street (not specified as to place within the shed or delineated) is legally valid, the court's conclusion that it had no market value is supported by the record. Thus, it had no effect on the valuation of appellant's property. Appellant fails to show that the court erred in determining that the PLA had zero market value. Appellant focuses on the validity of son's PLA but offers no compelling argument as to value. She appears to assert that the value of the PLA is $1000 but she gives no reason why this would be so, given that son's alleged interest is only one-quarter of an undefined portion of the shed with no specified manner of access. Appellant also notes that in 2017, a Property Valuation and Review hearing officer determined that all son's PLAs had zero value, but she merely asserts that this "is contested." As set forth above, the court provided reasonable grounds for its valuation of son's PLA and its decision is supported by the record. It did not err in valuing son's PLA at zero, even assuming it was valid.

Given our conclusion, we need not address appellant's other challenges to the validity of the PLA or his assertion that the City lacked standing to challenge the PLA's validity. Finally, we cannot discern any particular argument appellant makes about having her son assist her during the hearing at the trial court and what effect that allegedly had on the valuation of her property. As noted above, appellant agreed that the value of her property was $52,300 but argued that its value should be reduced due to son's alleged interest in the property. By raising these arguments, appellant was protecting her own interests and not being forced to defend son's rights, as she suggests. The court thoroughly considered her arguments and rejected them. Appellant fails to demonstrate any error.

Affirmed.

BY THE COURT:

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Paul L. Reiber, Chief Justice

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Beth Robinson, Associate Justice

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Karen R. Carroll, Associate Justice