

IN THE SUPREME COURT OF PENNSYLVANIA
Western District

STEPHEN SPEARE and VAN BUREN	:	No. 137 March Term, 1977
HOMES, INC.,	:	
Appellants	:	Appeal from the Order
	:	of the Commonwealth
v.	:	Court of Pennsylvania at No.
	:	1639 C.D. 1973, Affirming the
COMMONWEALTH OF PENNSYLVANIA,	:	Final Order of the Pennsylvania
PENNSYLVANIA HUMAN RELATIONS	:	Human Relations Commission at
COMMISSION	:	Docket No. H-1315.

__O_P_I_N_I_O_N__

PER CURIAM

FILED: APR 28 1978

On October 29, 1973, the Pennsylvania Human Relations Commission found that appellants, Van Buren Homes, Inc. and Stephen Speare, President, by systematically confining Black residents and applicants solely to dwelling units on two streets within the Van Buren Homes Development, engaged in unlawful discriminatory practices in violation of Section 5(h) of the Pennsylvania Human Relations Act. Act of October 27, 1955, P.L. 744, §5(h), as amended, 43 P.S. §955(h) (Supp. 1977-78). On November 8, 1973, the Commission ordered appellants to cease their unlawful discriminatory practices and designed a detailed and comprehensive plan to eliminate existing discrimination in the development and to ensure future compliance with the Act. The Commonwealth Court unanimously affirmed the Commission's final order and on we granted appellant's request to appeal to this Court. (*)

(*) Our jurisdiction in this case is based on the Appellate Court Jurisdiction Act of July 31, 1970, P.L. 673, No. 223, art. II, §204(a), 17 P.S. §211.204(a) (Supp. 1977-78).

Appellants raise the following arguments:

(1) The Pennsylvania Human Relations Commission allegedly exceeded their scope of authority in allowing the complaint to be amended on the day of the hearing, changing the wording "non-white" to "black".

(2) The evidence presented allegedly does not support the findings of fact and conclusions of law found in the Commission's adjudication.

(3) The Commission's final order is allegedly void and unenforceable as being arbitrary, burdensome and beyond the authority of the Commission.

(4) A non-profit cooperative housing corporation allegedly does not engage in "commercial housing" under the Pennsylvania Human Relations Act.

We find these arguments to be without merit and affirm the Order of the Commonwealth Court. Pennsylvania Human Relations Commission v. Alto Reste Park Cemetary Association, 453 Pa. 124, 133, 306 A.2d 881, 887 (1973); Pennsylvania Human Relations Commission v. Chester School District, 427 Pa. 157, 233 A.2d 290 (1967).

some circumstances, as a sale of the minerals in place and therefore, of course, the minerals are subject to an assessment and taxation in the name of the lessee. Nor are we dealing with the assessment of a building owned by a lessee on leased property. Such cases are entirely inapposite. See Pennsylvania State Company's Appeal, 236 Pa. 97, 84 A. 761 (1912).

Three Rivers Stadium was built by the Stadium Authority of the City of Pittsburgh pursuant to the Public Auditorium Authorities Law, Act of July 29, 1953, P.L. 1034, as amended, 53 P.S. § 23841. The Stadium Authority entered into a lease with Three Rivers Management Corporation, one of the appellees, under which the Three Rivers Management Corporation operates and maintains the Stadium. The lease is most unusual in form and content, tailored to this unique situation. For example, the term of 40 years was determined, not by the negotiations between the parties, but by the length of a bond issue by which funds were secured to build the Stadium. On oral argument, appellants attempted to establish that the rights given to appellee, Three Rivers Management Corporation, were so extensive as to create in it the incidents of ownership over a sufficiently long period of time that it might be considered to be the owner. Assuming there to be such a principle of law, appellees have no such extensive rights. For example, appellees are given the right to sub-lease and license the use of the premises, but only with the express approval of the lessor in each instance, both as to identity of the sub-lessee or licensee, the date or term of the arrangement, and the price to be charged—under such circumstances, the "right" to sub-lease or to license is not much of a "right". Indeed, it might be more persuasively argued, based on the extensive testimony in this record, that what is entitled a lease, as distinguished from being identified as a deed, is more properly described as an agreement to manage.

Affirmed.

Stephen SPEARE and Van Buren Homes, Inc., Appellants,
v.

Commonwealth of Pennsylvania, PENNSYLVANIA HUMAN RELATIONS COMMISSION, Appellee.

Commonwealth Court of Pennsylvania.

Argued Sept. 4, 1974.

Decided Dec. 4, 1974.

Appeal from final order of the Human Relations Commission against housing complex to cease unlawful discriminatory practices in limiting nonwhite housing applicants to two streets in housing complex. The Commonwealth Court, No. 1639 C.D. 1973, Mencer, J., held that evidence was sufficient to support Human Relations Commission's findings and conclusions that housing complex committed a discriminatory act in limiting blacks to two streets, that amendment of complaint to allege discrimination against "black" rather than "non-white" applicants was not offensive to requirement of due process, that merely because defendant had blacks living in its housing development did not mean it could not be found to be discriminating, that housing complex was engaged in "commercial housing" as contemplated by the Human Relations Act, and that order of Commission to require housing complex to maintain, for a period of two years, a file of all applicants, including indication of race of applicants, was not unduly burdensome or unreasonable.

Order affirmed.

1. Civil Rights ⇨72

Evidence, in action by Human Relations Commission against housing complex to cease unlawful discriminatory practices was sufficient to establish a violation of the act by limiting black applicants to two streets separated from the other portion of

the housing complex § 955(h).

2. Constitutional Law

Amendment of Human Relations Commission against "black" applicants, discriminated against streets of a housing complex to require defendant housing complex to file charge asserted in recent definite was placement practice non-complained.

1. Civil Rights ⇨1

Mere fact that blacks living in it did not mean housing complex found to be discriminating. The Human Relations Act, § 955(h).

4. Civil Rights ⇨11

Housing development in housing complex came under Act's definition of "commercial housing" as contemplated by the Human Relations Act, § 954(j).

1. Civil Rights ⇨6

Order of Human Relations Commission against housing complex for a period of two years, applicants submitted to Commission, indication of race of applicants, was not unduly burdensome and burdensome prior to Commission's order.

Joseph M. Stanic, Appellants.

Sanford Kahn, Appellee, Human Relations Commission, Harrisburg.