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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

CHARLES YOUNG,

Plaintiff and Appellant,

v.

GREGORY SCHMIDT, as Secretary, etc.,
et al.,

Defendants and Respondents;

HOWARD JARVIS TAXPAYERS
ASSOCIATION,

Intervener and Respondent.

B230629

(Los Angeles County
Super. Ct. No. BC422770)

APPEAL from a judgment of the Superior Court of Los Angeles County,
Kenneth R. Freeman, Judge. Affirmed.

Akin Gump Strauss Hauer & Feld, William A. Norris, Rex S. Heinke, Carlyle W. Hall, Jr., Orly Degani, Andrew Oelz; Kendall Brill & Klieger, Laura W. Brill and Nicholas Daum for Plaintiff and Appellant.

Horvitz & Levy, Barry R. Levy and David M. Axelrad for Public Counsel Law Center, Western Center on Law and Poverty, Erwin Chemerinsky, Christopher Edley, Jr., Kevin R. Johnson, and Frank H. Wu as Amici Curiae on behalf of Plaintiff and Appellant.

No appearance for Defendants and Respondents.

Trevor A. Grimm, Jonathan M. Coupal, Paul T. Gough, and Timothy A. Bittle for Intervener and Respondent.

Meriem L. Hubbard, Harold E. Johnson and Jennifer M. Fry for Pacific Legal Foundation, Fullerton Association of Concerned Tax Payers, Orange County Taxpayers Association, San Joaquin County Taxpayer's Association, Inc., Contra Costa Taxpayers Association, Sutter County Taxpayers' Association, The Humboldt County Taxpayers League, The Ventura County Taxpayers Association, Kern County Taxpayers Association, and Napa County Taxpayers Association as Amici Curiae on behalf of Intervener and Respondent.

* * * * *

It is easier to amend the California Constitution than to revise it. While an amendment may be achieved through a ballot initiative, a revision requires a constitutional convention and popular ratification or legislative submission of a measure to the voters. (*Legislature v. Eu* (1991) 54 Cal.3d 492, 506.)

The sole issue on appeal is whether section 3 of article XIII A of the California Constitution (section 3) requiring a supermajority of legislators to approve any state tax increase constituted a revision, rather than an amendment. Because our Supreme Court previously concluded that article XIII A in its entirety was an amendment, not a revision, its holding necessarily encompassed section 3. (*Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal.3d 208, 248 (*Amador*).) Following *Amador*, we reject appellant Charles Young's contention that section 3 constituted a revision. We affirm the judgment on the pleadings.

FACTS AND PROCEDURE

In 1978, voters passed Proposition 13, which enacted article XIII A of the California Constitution. Article XIII A sets a maximum amount of tax on real property (§ 1), describes how to calculate full cash value of real property (§ 2), requires a change in taxes to be approved by at least two-thirds of all members of each house of the state

Legislature (§ 3), and requires a special tax on a district to be approved by two-thirds of the qualified electors of such district (§ 4). When Young filed his lawsuit, section 3 provided in pertinent part: “From and after the effective date of this article, any changes in State taxes enacted for the purpose of increasing revenues collected pursuant thereto whether by increased rates or changes in methods of computation must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature. . . .”¹

Young filed a lawsuit seeking a declaratory judgment that section 3 constituted a revision. In his complaint, Young claimed that section 3 changed the fundamental structure and foundational powers of the legislative and executive branches of government. The trial court granted intervener and respondent Howard Jarvis Taxpayer Association’s (Howard Jarvis) motion for judgment on the pleadings and entered judgment in favor of Howard Jarvis. Defendants and respondents Gregory Schmidt in his capacity as Secretary of the California State Senate and E. Dotson Wilson in his capacity as Chief Clerk of the California Senate took no position in either the trial court or this court.

DISCUSSION

In *Amador*, *supra*, 22 Cal.3d 208, the California Supreme Court rejected the contention that article XIII A constituted a revision, not an amendment. *Amador* considered “fundamental challenges to the validity of article XIII A as a whole,” not the interpretation or application of specific provisions. (*Amador*, at p. 219.) The petitioners’ overarching argument was that “article XIII A represents such a drastic and far-reaching change in the nature and operation of our governmental structure that it must be considered a ‘revision’ of the state Constitution rather than mere ‘amendment’ thereof.” (*Id.* at p. 221.) The high court emphasized that if it found petitioners’ argument

¹ Section 3 was amended November 3, 2010, by voter Proposition 26. The amendment is not relevant to the issues raised in the current appeal.

persuasive, it would invalidate article XIII A, which did not comply with requirements for a constitutional revision. (*Amador*, at p. 221.)

Instead, the court held article XIII A was a valid amendment, rejecting the petitioners' fundamental challenge. *Amador* concluded that although "article XIII A will result in various substantial changes in the operation of the former system of taxation . . . , the article XIII A changes operate functionally within a relatively narrow range to accomplish a new system of taxation which may provide substantial tax relief for our citizens." (*Amador*, *supra*, 22 Cal.3d at p. 228.) The court found "nothing in the Constitution's revision and amendment provisions (art. XVIII) which would prevent the people of this state from exercising their will in the manner herein accomplished." (*Id.* at p. 229.) Ultimately, the court held that "article XIII A fairly may be deemed a constitutional amendment, not a revision." (*Ibid.*; see also *Strauss v. Horton* (2009) 46 Cal.4th 364, 428 [explaining that "*Amador* concluded that the proposition was 'more modest both in concept and effect [than the petitioners suggested] and [did] not change our basic governmental plan'"].)

Appellant argues that *Amador*'s holding is limited to article XIII A sections 1, 2, and 4 because those were the sections the court emphasized in considering the petitioners' arguments that (1) article XIII A would result in the loss of the ability of local government to control local affairs including budgetary decisions and (2) that section 4 would shift government from lawmaking by elected representative to lawmaking by the people. (*Amador*, *supra*, 22 Cal.3d at pp. 224-228.) We disagree.

Although sections 1, 2, and 4 were discussed in greater detail than section 3 to address the petitioners' specific arguments, the court never limited its holding to those sections.² The high court upheld the validity of the entire article, not of specific sections.

² Petitioners' points and authorities in support of their petition in *Amador* was not limited to article XIII A, sections 1, 2, and 4. With respect to section 3, petitioners argued (1) "[s]ection 3 of the Initiative seriously encumbers the power of the state to levy state taxes of any type whatsoever"; (2) section 3 restricted taxing power of the state

Additionally, *Amador* recognized that article XIII A imposed “important limitations upon the assessment and taxing powers of *state* and local governments” and nevertheless upheld the article. (*Amador, supra*, 22 Cal.3d at p. 218, italics added.) In upholding article XIII A in its entirety, *Amador* necessarily held that section 3 was an amendment. (See *In re Lance W.* (1985) 37 Cal.3d 873, 891 [rejecting an argument that a section of a proposition constituted a revision after the Supreme Court determined the proposition in its entirety constituted an amendment].) We must follow *Amador*, under which the trial court properly granted judgment on the pleadings. (*Auto Equity Sales, Inc. v. Superior Court* (1962) 57 Cal.2d 450, 455.)

DISPOSITION

The judgment is affirmed. Howard Jarvis is entitled to costs on appeal.

FLIER, J.

We concur:

BIGELOW, P. J.

SORTINO, J.*

government; and (3) that the state “is now hemmed in by the two-thirds vote requirement . . . so that the Legislature’s ability to raise money for either state or local purposes is cut back”

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Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.