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New Supreme Court Ruling Considers Municipal Property Taxes for Common Areas in Malls and Shopping Centers

The Dispute

The Tel Aviv Municipality sent the Ramat Aviv Mall a municipal property tax bill for its common areas. The mall's management argued that shop tenants must pay municipal property tax payments for these areas, under their lease agreements with the mall. Conversely, the municipality's property tax administrator argued that shop tenants must pay only for rented space, i.e. the shops. The basis for this claim is that the mall's management did not allocate any rights of use of the common areas to shop tenants.

The Ruling

The Supreme Court ruled that the taxpayer's identity for the purpose of municipal property taxes is legally established. No other contractual agreement may alter the legal provisions. According to Israeli law, municipal property taxes are imposed on those holding the property, whose identity is established under the "closest link to the property" test.

The mall's management holds and maintains the mall's common areas and it can use them as it sees fit. Therefore, the Supreme Court determined that the closest link to the property is the mall's management rather than the shop tenants. As a result, the Supreme Court found the mall's management was not entitled to both preserve to itself the right to hold the common areas and impose the duty to pay municipal property taxes for them upon shop tenants.

What Now?

It is likely this Supreme Court ruling will give rise to new interpretations of the "closest link to property" test.

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