

Armour v. Indianapolis (2012)

566 U.S. 673

For decades, the City of Indianapolis funded sewer projects using Indiana’s Barrett Law, which permitted cities to apportion a public improvement project’s costs equally among all abutting lots. Under that system, a city would create an initial assessment, dividing the total estimated cost by the number of lots. Once a project was completed, the city would issue a final lot-by-lot assessment. Lot owners could elect to pay the assessment in a lump sum or over time in installments. After Indianapolis completed the Brisbane/Manning Sanitary Sewers Project, it sent affected homeowners formal notice of their payment obligations. Of the 180 affected homeowners, 38 elected to pay the lump sum in the amount of \$9,278 per property. The following year, the City abandoned Barrett Law financing and adopted the Septic Tank Elimination Program (STEP), which financed projects in part through bonds, thereby lowering individual owner’s sewer-connection costs. In implementing STEP, the City’s Board of Public Works enacted a resolution forgiving all assessment amounts still owed pursuant to Barrett Law financing. Homeowners who had made a lump sum payment received no refund, while homeowners who had elected to pay in installments were under no obligation to make further payments. The 38 homeowners who paid the lump sum asked the City for a refund, but the City denied the request. Thirty-one of these homeowners brought suit in Indiana state court claiming that the City’s refusal violated the Equal Protection Clause of the Fourteenth Amendment. The trial court granted summary judgment to the homeowners, and the State Court of Appeals affirmed. However, the Indiana Supreme Court reversed, holding that the City’s distinction between those who had already paid and those who had not was rationally related to its legitimate interests in reducing administrative costs, providing financial hardship relief to homeowners, transitioning from the Barrett Law system to STEP, and preserving its limited resources. The Supreme Court granted certiorari.

Opinion of the Court: Breyer, Kennedy, Thomas, Ginsburg, Sotomayor, Kagan.

Dissenting opinion: Roberts, Scalia, Alito.

JUSTICE BREYER delivered the opinion of the Court.

. . . We hold that the City had a rational basis for distinguishing between those lot owners who had already paid their share of project costs and those who had not. And we conclude that there is no equal protection violation.

II

A

As long as the City’s distinction has a rational basis, that distinction does not violate the Equal Protection Clause. This Court has long held that “a classification neither involving fundamental rights nor proceeding along suspect lines . . . cannot run afoul of the Equal Protection Clause if there is a rational relationship between the disparity of treatment and some legitimate governmental purpose.” *Heller v. Doe* (1993). We have made clear in analogous contexts that, where “ordinary commercial transactions” are at issue, rational basis review requires deference to reasonable underlying legislative judgments. *United States v. Carolene Products Co.* (1938) (due process); see also *New Orleans v. Dukes*, (1976) (equal protection).

And we have repeatedly pointed out that “[l]egislatures have especially broad latitude in creating classifications and distinctions in tax statutes.” *Nordlinger v. Hahn* (1992).

Indianapolis’ classification involves neither a “fundamental right” nor a “suspect” classification. Its subject matter is local, economic, social, and commercial. It is a tax classification. And no one here claims that Indianapolis has discriminated against out-of-state commerce or new residents. Hence, this case falls directly within the scope of our precedents holding such a law constitutionally valid if “there is a plausible policy reason for the classification, the legislative facts on which the classification is apparently based rationally may have been considered to be true by the governmental decisionmaker, and the relationship of the classification to its goal is not so attenuated as to render the distinction arbitrary or irrational.” *Nordlinger*. And it falls within the scope of our precedents holding that there is such a plausible reason if “there is any reasonably conceivable state of facts that could provide a rational basis for the classification.”

Moreover, analogous precedent warns us that we are not to “pronounc[e]” this classification “unconstitutional unless in the light of the facts made known or generally assumed it is of such a character as to preclude the assumption that it rests upon some rational basis within the knowledge and experience of the legislators.” Further, because the classification is presumed constitutional, the “burden is on the one attacking the legislative arrangement to negative every conceivable basis which might support it.”

B

In our view, Indianapolis’ classification has a rational basis. Ordinarily, administrative considerations can justify a tax-related distinction. And the City’s decision to stop collecting outstanding Barrett Law debts finds rational support in related administrative concerns.

The City had decided to switch to the STEP system. After that change, to continue Barrett Law unpaid-debt collection could have proved complex and expensive. It would have meant maintaining an administrative system that for years to come would have had to collect debts arising out of 20-plus different construction projects built over the course of a decade, involving monthly payments as low as \$25 per household, with the possible need to maintain credibility by tracking down defaulting debtors and bringing legal action. The City, for example, would have had to maintain its Barrett Law operation within the City Controller’s Office, keep files on old, small, installment-plan debts, and (a City official says) possibly spend hundreds of thousands of dollars keeping computerized debt-tracking systems current. Unlike the collection system prior to abandonment, the City would not have added any new Barrett Law installment-plan debtors. And that fact means that it would have had to spread the fixed administrative costs of collection over an ever-declining number of debtors, thereby continuously increasing the per-debtor cost of collection. . . .

The rationality of the City’s distinction draws further support from the nature of the line-drawing choices that confronted it. To have added refunds to forgiveness would have meant adding yet further administrative costs, namely the cost of processing refunds. At the same time, to have tried to limit the City’s costs and lost revenues by limiting forgiveness (or refund) rules to Brisbane/Manning homeowners alone would have led those involved in other Barrett Law projects to have justifiably complained about unfairness. Yet to have granted refunds (as well as providing forgiveness) to all those involved in all Barrett Law projects (there were more than 40 projects) or in all open projects (there were more than 20) would have involved even greater

administrative burden. The City could not just “cut . . . checks,” (Roberts, C. J., dissenting), without taking funding from other programs or finding additional revenue. If, instead, the City had tried to keep the amount of revenue it lost constant (a rational goal) but spread it evenly among the apparently thousands of homeowners involved in any of the Barrett Laws projects, the result would have been yet smaller individual payments, even more likely to have been too small to justify the administrative expense.

Finally, the rationality of the distinction draws support from the fact that the line that the City drew—distinguishing past payments from future obligations—is a line well known to the law. Sometimes such a line takes the form of an amnesty program, involving, say, mortgage payments, taxes, or parking tickets. This kind of line is consistent with the distinction that the law often makes between actions previously taken and those yet to come. . . .

* * *

For these reasons, we conclude that the City has not violated the Federal Equal Protection Clause. And the Indiana Supreme Court’s similar determination is

Affirmed.

CHIEF JUSTICE ROBERTS, with whom JUSTICE SCALIA and JUSTICE ALITO join, dissenting.

Twenty-three years ago, we released a succinct and unanimous opinion striking down a property tax scheme in West Virginia on the ground that it clearly violated the Equal Protection Clause. *Allegheny Pittsburgh Coal Co. v. Commission of Webster Cty.* (1989) . In Allegheny Pittsburgh, we held that a county failed to comport with equal protection requirements when it assessed property taxes primarily on the basis of purchase price, with no appropriate adjustments over time. The result was that new property owners were assessed at “roughly 8 to 35 times” the rate of those who had owned their property longer. We found such a “gross disparit[y]” in tax levels could not be justified in a state system that demanded that “taxation . . . be equal and uniform.” The case affirmed the common-sense proposition that the Equal Protection Clause is violated by state action that deprives a citizen of even “rough equality in tax treatment,” when state law itself specifically provides that all the affected taxpayers are in the same category for tax purposes.

In this case, the Brisbane/Manning Sanitary Sewers Project allowed 180 property owners to have their homes hooked up to the City of Indianapolis’s sewer system under the State’s Barrett Law. That law requires sewer costs to “be primarily apportioned equally among all abutting lands or lots.” In the case of Brisbane/Manning, the cost came to \$9,278 for each property owner. Some of the property owners—petitioners here—paid the full \$9,278 up front. Others elected the option of paying in installments. Shortly after hook-up, the City switched to a new financing system and decided to forgive the hook-up debts of those paying on an installment plan. The City refused, however, to refund any portion of the payments made by their identically situated neighbors who had already paid the full amount due. The result was that while petitioners each paid the City \$9,278 for their hook-ups, more than half their neighbors paid less than \$500 for the same improvement—some as little as \$309.27. Another quarter paid less than \$1,000. Petitioners thus paid between 10 and 30 times as much for their sewer hook-ups as their neighbors.

In seeking to justify this gross disparity, the City explained that it was presented with three choices: First, it could have continued to collect the installment plan payments of those who had not yet settled their debts under the old system. Second, it could have forgiven all those debts and given equivalent refunds to those who had made lump sum payments up front. Or third, it could have forgiven the future payments and not refunded payments that had already been made. The first two choices had the benefit of complying with state law, treating all of Indianapolis's citizens equally, and comporting with the Constitution. The City chose the third option.

And what did the City believe was sufficient to justify a system that would effectively charge petitioners 30 times more than their neighbors for the same service—when state law promised equal treatment? Two things: the desire to avoid administrative hassle and the “fiscal challenge” of giving back money it wanted to keep. I cannot agree that those reasons pass constitutional muster, even under rational basis review.

The City argues that either of the other options for transitioning away from the Barrett Law would have been “immensely difficult from an administrative standpoint.” The Court accepts this rationale, observing that “[o]rdinarily, administrative considerations can justify a tax-related distinction.” The cases the Court cites, however, stand only for the proposition that a legislature crafting a tax scheme may take administrative concerns into consideration when creating classes of taxable entities that may be taxed differently.

Here, however, Indiana's tax scheme explicitly provides that costs will “be primarily apportioned equally among all abutting lands or lots.” The legislature has therefore decreed that all abutting landowners are within the same class. We have never before held that administrative burdens justify grossly disparate tax treatment of those the State has provided should be treated alike. Indeed, in *Allegheny Pittsburgh* the County argued that its unequal assessments were based on “administrative cost” concerns, to no avail. The reason we have rejected this argument is obvious: The Equal Protection Clause does not provide that no State shall “deny to any person within its jurisdiction the equal protection of the laws, unless it's too much of a bother.”

Even if the Court were inclined to decide that administrative burdens alone may sometimes justify grossly disparate treatment of members of the same class, this would hardly be the case to do that. The City claims it cannot issue refunds because the process would be too difficult, requiring that it pore over records of old projects to determine which homeowners had overpaid and by how much. But holding that the City must refund petitioners' overpayments would not mean that it has to refund overpayments in every Barrett Law project. The Equal Protection Clause is concerned with “gross” disparity in taxing. Because the Brisbane/Manning project was initiated shortly before the Barrett Law transition, the disparity between what petitioners paid in comparison to their installment plan neighbors was dramatic. Not so with respect to, for example, a project initiated 10 years earlier, because for those projects even installment plan payers will have largely satisfied their debts, resulting in far less significant disparities.

To the extent a ruling for petitioners would require issuing refunds to others who overpaid under the Barrett Law, I think the city workers are up to the task. The City has in fact already produced records showing exactly how much each lump-sum payer overpaid in every active Barrett Law Project—to the penny. What the city employees would need to do, therefore, is cut the checks and mail them out.

Certainly the job need not involve the complicated procedure the Court describes in an attempt to bolster its administrative convenience argument. . . .

The Court suggests that the City’s administrative convenience argument is one with which the law is comfortable. The Court compares the City’s decision to forgive the installment balances to the sort of parking ticket and mortgage payment amnesty programs that currently abound. This analogy is misplaced: Amnesty programs are designed to entice those who are unlikely ever to pay their debts to come forward and pay at least a portion of what they owe. It is not administrative convenience alone that justifies such schemes. In a sense, these schemes help remedy payment inequities by prompting those who would pay nothing to pay at least some of their fair share. The same cannot be said of the City’s system. . . .

Our precedents do not ask for much from government in this area—only “rough equality in tax treatment.” *Allegheny Pittsburgh*. . . [E]very generation or so a case comes along when this Court needs to say enough is enough, if the Equal Protection Clause is to retain any force in this context. *Allegheny Pittsburgh* was such a case; so is this one. Indiana law promised neighboring homeowners that they would be treated equally when it came to paying for sewer hook-ups. The City then ended up charging some homeowners 30 times what it charged their neighbors for the same hook-ups. The equal protection violation is plain. I would accordingly reverse the decision of the Indiana Supreme Court, and respectfully dissent from the Court’s decision to do otherwise.