

Federal Court of Appeal



Cour d'appel fédérale

Date: 20150615

Docket: A-320-14

Citation: 2015 FCA 146

**CORAM: RYER J.A.
WEBB J.A.
RENNIE J.A.**

BETWEEN:

**BAOXIAN JIA
(As well as all other Appellants attached as
"Appendix A" to the within Notice)**

Appellants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

Heard at Toronto, Ontario, on June 15, 2015.
Judgment delivered from the Bench at Toronto, Ontario, on June 15, 2015.

REASONS FOR JUDGMENT OF THE COURT BY:

RYER J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Toronto, Ontario, on June 15, 2015).

RYER J.A.

[1] We are all of the view that the appeals in files A-117-14, a decision of Boivin J. (as he then was) and A-320-14, a decision of Gleason J. (collectively Boivin J. and Gleason J. are referred to as the "Federal Court Judges") are moot. The applications that were before the

Federal Court Judges in these appeals were for orders of *mandamus* to compel the Minister of Citizenship and Immigration to process applications for permanent residence under the federal Immigrant Investor Program (“IIP”) in the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, (“*IRPA*”) that had not been processed as fast as the applicants desired.

[2] The decision under appeal in A-320-14 was rendered on June 23, 2014. Four days earlier, section 87.5 of the *IRPA* came into force. Its effect was to terminate all of the applications of the appellants in these appeals.

[3] Before this Court, the Crown asserts that the effect of section 87.5 of the *IRPA* is to render all of the appeals moot on the basis that all of the applications have been terminated.

[4] The leading case on mootness is *Borowski v Canada (Attorney General)*, [1989] 1 S.C.R. 342. At page 353 Justice Sopinka states:

The doctrine of mootness is an aspect of a general policy or practice that a court may decline to decide a case which raises merely a hypothetical or abstract question. The general principle applies when the decision of the court will not have the effect of resolving some controversy which affects or may affect the rights of the parties. If the decision of the court will have no practical effect on such rights, the court will decline to decide the case. This essential ingredient must be present not only when the action or proceeding is commenced but at the time when the court is called upon to reach a decision. Accordingly if, subsequent to the initiation of the action or proceeding, events occur which affect the relationship of the parties so that no present live controversy exists which affects the rights of the parties, the case is said to be moot. The general policy or practice is enforced in moot cases unless the court exercises its discretion to depart from its policy or practice. The relevant factors relating to the exercise of the court's discretion are discussed hereinafter.

[5] In the present circumstances, the live controversy was whether the Minister could be compelled by *mandamus* to process the applications that were outstanding at the time that the *mandamus* applications were made to, and heard by, the Federal Court Judges.

[6] The enactment of section 87.5 terminated all of the applications under the IIP. As a result, the issue of whether the Minister could be forced to process these applications was no longer a live controversy.

[7] The constitutional validity of section 87.5 of the *IRPA* was not part of the controversy before either of the Federal Court Judges. Neither was the question of whether an order of *mandamus* could be granted, on some basis, to compel the Minister to process applications under the IIP that had been terminated. We are not inclined to entertain these issues as a matter of first instance on appeal.

[8] Having concluded that the appeals are moot, we are not inclined to exercise our discretion to hear them, as we believe that doing so would have no practical effect.

[9] For the foregoing reasons, we would dismiss the appeals without costs. A copy of these reasons should be placed in the files in both A-320-14 and A-117-14.

"C. Michael Ryer"

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

**APPEAL FROM AN ORDER OF THE HONOURABLE MADAM JUSTICE GLEASON
OF THE FEDERAL COURT OF CANADA, DATED JUNE 23, 2014, DOCKET NO.
IMM-2621-13**

DOCKET: A-320-14

STYLE OF CAUSE: BAOXIAN JIA (AS WELL AS ALL
OTHER APPELLANTS
ATTACHED AS “APPENDIX A”
TO THE WITHIN NOTICE) v. THE
MINISTER OF CITIZENSHIP
AND IMMIGRATION

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: JUNE 15, 2015

REASONS FOR JUDGMENT OF THE COURT BY: RYER J.A.
WEBB J.A.
RENNIE J.A.

DELIVERED FROM THE BENCH BY: RYER J.A.

APPEARANCES:

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Appendix A

1.	IMM-2501-13	MOHSEN ESMAEILI v MCI
2.	IMM-2503-13	KRISHNAN KUMAR BANSAL v MCI
3.	IMM-2508-13	HASSAN GHOLAMPOUR v MCI
4.	IMM-2509-13	ALIREZA NIKOONASIRI v MCI
5.	IMM-2510-13	AHMAD NASSERI KARUMU VAND v MCI
6.	IMM-2511-13	NASER JAFARPOUR v MCI
7.	IMM-2512-13	HASSAN HOOSHYAR v MCI
8.	IMM-2517-13	NOSRATOLLAH HOMAYOON v MCI
9.	IMM-2518-13	MOHAMMED GHANAVIZI v MCI
10.	IMM-2617-13	YAN LIN DU v MCI
11.	IMM-2618-13	JUN HU v MCI
12.	IMM-2619-13	JUN HUANG v MCI
13.	IMM-2620-13	XINGPING HUA v MCI
14.	IMM-2622-13	HUI JIANG v MCI
15.	IMM-2623-13	ZHONGCUN JIANG v MCI
16.	IMM-2625-13	ZHONGLIN JIANG v MCI
17.	IMM-2630-13	JIANSHENG LI v MCI
18.	IMM-2631-13	LUMIN LI v MCI
19.	IMM-2635-13	JIANG LONG v MCI
20.	IMM-2637-13	SHUNYOU MA v MCI
21.	IMM-2638-13	YING TAO MA v MCI
22.	IMM-2642-13	WENYAN QIN v MCI
23.	IMM-2646-13	JINSHENG XU v MCI
24.	IMM-2647-13	TING LI v MCI
25.	IMM-2651-13	CHENGRUI LIM v MCI
26.	IMM-2653-13	YANGYONG LIN v MCI
27.	IMM-2654-13	LIN LIU v MCI
28.	IMM-2656-13	JIYUN LIU v MCI
29.	IMM-2657-13	LIKUN SHI v MCI
30.	IMM-2658-13	SWENZENG YANG v MCI
31.	IMM-2659-13	SHENGLI SHI v MCI
32.	IMM-2660-13	MEILING YUAN v MCI
33.	IMM-2663-13	HUI ZHANG v MCI
34.	IMM-2665-13	LEI ZHANG v MCI
35.	IMM-2666-13	XIAOJING WANG v MCI
36.	IMM-2667-13	YAN ZHANG v MCI
37.	IMM-2668-13	YUN ZHANG v MCI
38.	IMM-2669-13	YUN WANG v MCI
39.	IMM-2670-13	CUNXIONG ZHENG v MCI
40.	IMM-2671-13	HUI ZHU v MCI
41.	IMM-2672-13	SHUHE ZHU v MCI
42.	IMM-2674-13	SHUNYUN ZHU v MCI
43.	IMM-2676-13	CHANGFENG WU v MCI

44.	IMM-2678-13	JING XIONG v MCI
45.	IMM-2679-13	DUOYU XU v MCI
46.	IMM-3892-13	IAN FREDERICK STOPFORTH v MCI
47.	IMM-3894-13	ZIXIANG ZHANG v MCI
48.	IMM-4985-13	ZHEWEI LIU v MCI
49.	IMM-4986-13	HAILONG YU v MCI
50.	IMM-4988-13	LIN YU v MCI
51.	IMM-4990-13	JUHAI SHAN v MCI
52.	IMM-4992-13	SONGQIAO YANG v MCI
53.	IMM-5221-13	TIANHUA LIU v MCI
54.	IMM-5222-13	LIZHU WANG v MCI
55.	IMM-5223-13	XIUZHI CHEN v MCI
56.	IMM-5224-13	HONGXIA GONG v MCI
57.	IMM-5363-13	JIAHONG HU v MCI
58.	IMM-5365-13	HONGFEI LI v MCI
59.	IMM-5366-13	WENJI LI v MCI
60.	IMM-5542-13	GUI v MCI
61.	IMM-5543-13	GUO v MCI
62.	IMM-7084-13	ZUQIANG PAN v MCI
63.	IMM-7085-13	GUIYUN PAN v MCI
64.	IMM-7086-13	YING CHEN v MCI
65.	IMM-7724-13	LI JIN v MCI
66.	IMM-7727-13	YONGPENG WANG v MCI
67.	IMM-8102-13	XIAOAN ZHENG v MCI
68.	IMM-8104-13	YIWEN ZHANG v MCI
69.	IMM-8107-13	WENSHEN XIAO v MCI
70.	IMM-8108-13	CHUNFENG SHEN v MCI
71.	IMM-8110-13	WEI QU v MCI
72.	IMM-8111-13	ZHUOBIN LIU v MCI
73.	IMM-8112-13	DEWEN GONG v MCI
74.	IMM-8113-13	CHUANLI GAO v MCI
75.	IMM-8114-13	YI CAI v MCI
76.	IMM-8350-13	YONG SUN v MCI
77.	IMM-8354-13	YUWEI CHEN v MCI
78.	IMM-8355-13	MING CONG v MCI
79.	IMM-8357-13	JISEN DENG v MCI
80.	IMM-8382-13	BOXIANG MA v MCI
81.	IMM-8383-13	DANNA WU v MCI
82.	IMM-8384-13	ZHIJUN WU v MCI
83.	IMM-8385-13	CHUNLIN YE v MCI
84.	IMM-8389-13	LIYI ZHONG v MCI
85.	IMM-8391-13	WEIBIN LIAO v MCI
86.	IMM-8394-13	YIXIANG LI v MCI
87.	IMM-8395-13	MINREN LIANG v MCI
88.	IMM-8396-13	HUIFANG LIANG v MCI

89.	IMM-8397-13	MEIRONG LI v MCI
90.	IMM-8404-13	GUORU LI v MCI
91.	IMM-8405-13	ZHITONG HAN v MCI
92.	IMM-8407-13	HANG FENG v MCI
93.	IMM-8408-13	YONGXIA DENG v MCI
94.	IMM-204-14	LINFENG JIN v MCI