

Docket: 2019-1631(IT)G

BETWEEN:

THE ESTATE OF VLADIMIR MANDIC,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

Case Management Conferences heard on April 12, 2022,
September 27, 2022, October 5, 2022, and November 30, 2023, at
Toronto, Ontario

Before: The Honourable Justice Ronald MacPhee

Appearances:

Counsel for the Appellant: Max Shin as a friend of the Court

Counsel for the Respondent: Laurent Bartleman

JUDGMENT

UPON hearing the evidence and submissions of *Amicus Curaie* for the appellant and counsel for the respondent;

IN ACCORDANCE with the attached Reasons for Judgment, the Appeal should be allowed in accordance with the terms of the April 29, 2021 Consent to Judgement attached with the appropriate amendment requested by the Court, specifically that matter not be vacated but referred back to the Minister of National Revenue for reconsideration and reassessment.

The style of cause in this matter shall be amended to The Estate of Vladimir Mandic v. His Majesty the King.

Both parties will be responsible for their own costs.

Signed at Ottawa, Canada, this 26th day of June 2024.

“R. MacPhee”

MacPhee J.

Citation: 2024 TCC 91
Date: 20240626
Docket: 2019-1631(IT)G

BETWEEN:

VLADIMIR MANDIC,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

REASONS FOR JUDGMENT

MacPhee J.

I. FACTS

[1] This is a very unusual matter which arises out of a case management hearing.

[2] Mr. Mandic was reassessed for unreported income of \$266,554 for the 2015 taxation year. A Notice of Appeal was filed by Mr. Mandic in response to the Minister's reassessment on May 3, 2019. The Reply to the Notice of Appeal was filed on July 15, 2019. Documents were exchanged by the parties and discoveries conducted. A settlement agreement was reached on this matter and both parties signed a consent to judgment stating the reassessment of the taxation year in issue will be vacated. This occurred on April 29, 2021.

[3] The Tax Court judge who was provided with the consent to judgement took issue with one specific phrase in the agreement. Specifically, in the Minutes of Settlement, the parties asked the Tax Court that the Reassessment of the Appellant's 2015 taxation year be *vacated*. The duty judge who received this request returned it to the parties to amend. Pursuant to the direction of the Court, the reassessment was not to be vacated, but *referred back to the MNR for reconsideration and reassessment*.

[4] Mr. Mandic died in November 2021, before both parties signed the amended Consent to Judgement with the corrected wording. No person has become the

executor of the Appellant's estate and it appears there is no person directing counsel for the Appellant.

[5] This Court now must determine how to dispose of the matter, either by issuing an order to allow the Appeal pursuant to the original Minutes of Settlement or disposing of the matter for a lack of prosecution.

II. ISSUES

[6] The issues are as follows:

- Can the Crown be bound to a settlement agreement, which was agreed to, yet went unsigned due to the death of the Appellant?
- Does the style of cause need to be amended?
- If so, what order should this Court issue?

III. ANALYSIS

A. Allowing the Appeal in accordance with subsection 171(1)

[7] The Federal Court of Appeal in *CBS Holdings* outlined the general rule that parties should be bound by the agreements they make, if the Crown enters into a settlement agreement the Crown should be held to the agreement.¹

[8] In addition to this general rule, the jurisprudence has established the Tax Court has jurisdiction to enforce settlement agreements in accordance with subsection 171(1).²

[9] In the current matter, both parties agreed to and signed the original consent to judgment – this demonstrates the Crown had an intention to settle the matter and believed a settlement was in its best interest. The death of the Appellant and the lack of an executor for Mr. Mandic's estate has lead the Crown to take the position that they now are unable to agree to settle this matter. While I am sympathetic to their position, which has been set out in great detail over the course of multiple case

¹ *Her Majesty the Queen v. CBS Canada Holdings Co*, 2020 CarswellNat 51 at para 35-36.

² *Huppe v The Queen* 2010 TCC 644 at para 18 [**Huppe**]; *Quebec Fonte Inc. v The Queen* 2020 TCC 126 at para 33 [**Quebec Fonte**]; *Doussot v The King* 2023 TCC 26 at para 9 [**Doussot**].

management hearings, the Rules do provide me with discretion to reach a just result on this matter.

[10] This Court has the power to enforce a settlement agreement.³ In this instance there is no doubt that the parties had an intention to settle this matter and likely would have finalized the settlement but for the Appellant's death. As such, pursuant to subparagraph 171(1)(b)(iii) this Court should allow the appeal by referring the assessment back to the Minister for reconsideration and reassessment in accordance with the settlement agreement, with the amendment requested by the Court.

[11] Other Tax Court of Canada General Procedure rules also grant the presiding judge broad discretion. Rule 4(1) states that the Rules *shall be liberally construed to secure the just, most expeditious and least expensive determination of every proceeding on its merits.*

[12] Rule 9 allows the Court to dispense with compliance with the rules where it is in the interest of justice.

[13] Finally, pursuant to subsection 126(4)(e), a case management judge may make any order that is considered just in the circumstances.

B. Rule 29 of the Tax Court Rules (General Procedure)

[14] A potential issue that should be addressed is whether the Appellant is in compliance with Rule 29 of the Tax Court Rules. Subsequent to the death of the Appellant, no person has taken the role of executor of the estate nor has the interest of the Appellant in this matter been transferred to a party with capacity.

[15] Rule 29 concerns the transfer of interest in a proceeding before the Court. Rule 29 specifically contemplates the death of an appellant taxpayer as a circumstance which would necessitate a transferring of interest.

[16] Sub rules 29(1) – 29(3) provide the steps required to amend a style of cause to reflect the transfer of interest in a style of cause due to the death of a taxpayer. First, the party requiring the transfer of interest must notify the Registrar and provide particulars as to why the transfer or amendment of style of cause is needed. Next, upon receipt of notice and the particulars, the Registrar will consult with the parties regarding how the proceedings will continue and report to the Chief Justice. Finally,

³ *Supra* notes 1-2.

once the above two steps have been met the Chief Justice, or designated judge with charge over the matter, may give directions on how to proceed.

C. Disposition regarding Rule 29

[17] The Appellant has not fulfilled the requisite steps in accordance with Rule 29.

[18] Subrule 29(3) gives me discretion to *give such other direction as just*. In exercising this authority, I direct that the style of cause in this matter be amended to The Estate of Vladimir Mandic v. His Majesty the King.

D. Conclusion

[19] The style of cause in this matter shall be amended to The Estate of Vladimir Mandic v. His Majesty the King.

[20] The Appeal should be allowed in accordance with the terms of the April 29, 2021 settlement agreement with the appropriate amendment requested by the Court, specifically that matter not be vacated but *referred back to the Minister of National Revenue for reconsideration and reassessment*.

[21] Both parties will be responsible for their own costs.

Signed at Ottawa, Canada, this 26th day of June 2024.

“R. MacPhee”

MacPhee J.

2019-1631(IT)G

TAX COURT OF CANADA

BETWEEN:

VLADIMIR MANDIC

and

Appellant

HER MAJESTY THE QUEEN

Respondent

CONSENT TO JUDGMENT

The appellant and the respondent consent to judgment allowing the appeal with respect to the appellant's 2015 taxation year and referring the matter back to the Minister of National Revenue for reconsideration and reassessment on the basis that:

- a) the reassessment of the appellant's 2015 taxation year, notice of which is dated June 15, 2017, will be vacated;
- b) the parties will bear their own costs of the appeal; and
- c) the appellant is not entitled to any further relief.


Initial for App.

Initial for Resp.

- 2 -

DATED at Toronto, Ontario, ~~March~~ 29, 2021
April

Igor Kastelyanets

Duane R. Milot/Igor Kastelyanets
Milot Law
181 University Avenue, Suite 2200
Toronto, Ontario
M5H 3M7

Tel: 416-907-8429
Fax: 866-367-9130

Counsel for the Appellant

DATED at Toronto, Ontario, ~~March~~ 29, 2021
April

Attorney General of Canada
Solicitor for the Respondent

Isida Ranxi

Per: Isida Ranxi
Department of Justice Canada
Ontario Regional Office
120 Adelaide Street West
Suite 400
Toronto, Ontario
M5H 1T1

Tel: 647-256-7437
Fax: 416-973-0810

Counsel for the Respondent

TO: Tax Court of Canada
200 Kent Street
Ottawa, Ontario
K1A 0M1

VM

Initial for App.
I.R.

Initial for Resp.

2019-1631(IT)G

TAX COURT OF CANADA

BETWEEN:

VLADIMIR MANDIC

Appellant

and

HER MAJESTY THE QUEEN

Respondent

CONSENT TO JUDGMENT

Attorney General of Canada
Solicitor for the Respondent

Per: Isida Ranxi
Department of Justice Canada
Ontario Regional Office
120 Adelaide Street West
Suite 400
Toronto, Ontario
M5H 1T1

Tel: 647-256-7437
Fax: 416-973-0810
File: 10668199

Counsel for the Respondent

CITATION: 2024 TCC 91
COURT FILE NO.: 2019-1631(IT)G
STYLE OF CAUSE: VLADIMIR MANDIC AND HIS MAJESTY THE KING
PLACE OF HEARING: Toronto, Ontario
DATE OF HEARING: November 30, 2023
REASONS FOR JUDGMENT BY: The Honourable Justice Ronald MacPhee
DATE OF JUDGMENT: June 26, 2024

APPEARANCES:

Counsel for the Appellant: Unrepresented, Max Shin
appeared as a friend of the
Court

Counsel for the Respondent: Laurent Bartleman

COUNSEL OF RECORD:

For the Appellant:

Name: Max Shin

Firm: Milot Law

For the Respondent:

Shalene Curtis-Micallef
Deputy Attorney General of Canada
Ottawa, Canada