

Federal Court of Appeal



Cour d'appel fédérale

Date: 20171102

Docket: A-474-16

Citation: 2017 FCA 214

**CORAM: GAUTHIER J.A.
NEAR J.A.
DE MONTIGNY J.A.**

BETWEEN:

BRUCE BEATTIE & JOYCE BEATTIE

Appellants

and

ATTORNEY GENERAL OF CANADA

Respondent

Heard at Calgary, Alberta, on November 1, 2017.

Judgment delivered at Calgary, Alberta, on November 2, 2017.

REASONS FOR JUDGMENT BY:

GAUTHIER J.A.

CONCURRED IN BY:

**NEAR J.A.
DE MONTIGNY J.A.**

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REASONS FOR JUDGMENT

GAUTHIER J.A.

[1] In this appeal, Bruce and Joyce Beattie are self-represented. They challenge the decision of Mosley J. of the Federal Court (2016 FC 1328) dismissing their application to quash a decision of the Canadian Human Rights Tribunal (CHRT). In its decision (2016 CHRT 5), the CHRT dismissed the appellants' complaints that they were the victims of discrimination on the grounds of race, national or ethnic origin, by reason of an official of the Indian Reserve Land Register (the Register) refusal to register certain land documents, contrary to section 5 of the

Canadian Human Rights Act, R.S.C. 1985, c. H-6 (CHRA). After a hearing and on the basis of the evidence before it, the CHRT found that the said documents were not registered because they did not meet the requirements set out in the *Indian Act*, R.S.C. 1985, c. I-5. In making this finding, the CHRT relied on what it described as “highly credible evidence of Ms. Craig that was not contradicted or challenged in any material way”. Also, the CHRT relied upon the Register’s Manual and its understanding of the *Indian Act*. The CHRT found that what the appellants challenged was how the provisions of the *Indian Act* were applied to them. It held that it was the mandatory land management scheme of the *Indian Act* that was being challenged and as such, not a service provided within the meaning of section 5 and subsection 40(1) of the CHRA. It thus dismissed the complaints and suggested to the appellants other remedies they might wish to consider.

[2] The Federal Court applied the reasonableness standard to review the merits of the decision, given that the CHRT is entitled to deference when it construes its home statute (CHRA) and more particularly the words “service” in section 5 and “discriminatory practice” in subsection 40(1). The Federal Court thoroughly reviewed all of the arguments presented. Among other things, it noted that Mr. Beatty’s contention that the land at issue was not Crown land (even though it was part of the Band’s reserve) and thus, not subject to any requirements for its registration, was not supported by the legislation or the jurisprudence. The Federal Court concluded that the reasoning of the CHRT was transparent, justified and intelligible and that its finding was within the range of acceptable outcomes defensible on the facts and the law.

[3] I can see no error in the Federal Court’s application of the standard of review it chose to apply. I agree that the standard of reasonableness applies and I would reach the same conclusion as the Federal Court essentially for the reasons it gave.

[4] The appellants agree that the Federal Court could apply the reasonableness standard in reviewing how the CHRT characterized their complaints and its interpretation of the CHRA. However, they say that the CHRT’s interpretation of the *Indian Act* should have been reviewed on the correctness standard.

[5] In my view, in this case, whichever standard applies — correctness or reasonableness, to review the decision of the CHRT as a whole or in part , the conclusion remains that the CHRT committed no error in characterizing the complaints before it and in concluding that they did not fall within the ambit of section 5 and subsection 40(1) of the CHRA (*Public Service Alliance of Canada v. Canada Revenue Agency*, 2012 FCA 7 at para. 6; *Canada (Human Rights Commission) v. Canada (Attorney General)*, 2016 FCA 200 at paras. 94-100, leave to appeal to S.C.C. granted, 37208 (March 30, 2017)).

[6] In the particular circumstances of this case, I propose to dismiss this appeal without costs.

"Johanne Gauthier"

J.A.

“I agree
D.G. Near J.A.”

“I agree
Yves de Montigny J.A.”

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

**APPEAL FROM A JUDGMENT OF THE HONOURABLE MR. JUSTICE MOSLEY
DATED NOVEMBER 30, 2016, DOCKET NO. 2016 FC 1328**

DOCKET: A-474-16

STYLE OF CAUSE: BRUCE BEATTIE & JOYCE
BEATTIE v. ATTORNEY
GENERAL OF CANADA

PLACE OF HEARING: Calgary, Alberta

DATE OF HEARING: NOVEMBER 1, 2017

REASONS FOR JUDGMENT BY: GAUTHIER J.A.

CONCURRED IN BY: NEAR J.A.
DE MONTIGNY J.A.

DATED: NOVEMBER 2, 2017

APPEARANCES:

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Joyce Beattie

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ON THEIR OWN BEHALF

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