

Federal Court of Appeal



Cour d'appel fédérale

Date: 20121017

Docket: A-110-11

Citation: 2012 FCA 262

**CORAM: NOËL J.A.
SHARLOW J.A.
STRATAS J.A.**

BETWEEN:

ROGER R. PRESSEAULT and CLAIRE PRESSEAULT

Appellants

and

HER MAJESTY THE QUEEN

Respondent

Heard at Ottawa, Ontario, on October 17, 2012.

Judgment delivered from the Bench at Ottawa, Ontario, on October 17, 2012.

REASONS FOR JUDGMENT OF THE COURT BY:

SHARLOW J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Ottawa, Ontario, on October 17, 2012)

SHARLOW J.A.

[1] This is an appeal of a judgment of Justice Lamarre of the Tax Court of Canada (2011 TCC 69) dismissing three tax appeals by the appellants Roger R. Presseault and his spouse Claire Presseault. Two of the Tax Court appeals were from assessments under the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.) for 1996, 1997, 1998 and 1999, and one was from an assessment under Part IX of the *Excise Tax Act*, R.S.C. 1985, c. E-15, relating to the same years. In this Court, Mr. Presseault represented himself and also, with leave of this Court, spoke for Ms. Presseault.

[2] During the period in issue, the appellants carried on business in partnership under the name Les Entreprises CRP Entreprises (CRP). The issues under appeal relate to deductions for expenses claimed to have been incurred by CRP for business purposes. The position of the appellants is that these expenses were incurred by CRP for subcontracting or consulting, and for meals and entertainment, in connection with a contractual relationship between CRP and Mr. Daniel Ryan who, according to the appellants, provided services to CRP.

[3] Justice Lamarre dismissed the appeals in respect of the disputed expenses. She did not accept that the claimed amounts were expenses incurred by CRP for business purposes, in large part because she found the oral and documentary evidence of Mr. Presseault not to be credible. Specifically, she did not accept that there was a contractual relationship between CRP and Mr. Ryan entitling him to compensation. Her reasons explain clearly why she reached that conclusion; it is not necessary to recount here the many problems she identified with the credibility of the evidence.

[4] In this Court, the appellants challenge Justice Lamarre's findings of fact. An appeal in this Court cannot succeed on that ground in the absence of palpable and overriding factual error. Having reviewed the record and considered the written and oral submissions of Mr. Presseault, we conclude that the factual conclusions reached by Justice Lamarre were reasonably open to her on the evidence presented. We have not been able to identify any palpable and overriding factual error. Therefore, the appeal of the judgments in Tax Court files 2009-1203(IT)I, 2009-1210(GST)I and 2009-1212(IT)I will be dismissed with costs.

“K. Sharlow”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-110-11

APPEAL FROM JUDGMENTS OF THE HONOURABLE JUSTICE LUCIE LAMARRE OF THE TAX COURT OF CANADA DATED FEBRUARY 7, 2011, DOCKETS NOS. 2009-1203(IT)I, 2009-1210(GST)I, 2009-1212(IT)I.

STYLE OF CAUSE: Roger R. Presseault and Claire
Presseault and Her Majesty the Queen

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: October 17, 2012

REASONS FOR JUDGMENT OF THE COURT BY: Noël, Sharlow, Stratas JJ.A.

DELIVERED FROM THE BENCH BY: Sharlow J.A.

APPEARANCES:

Roger Presseault FOR THE APPELLANTS

Ashleigh Akalehiywot FOR THE RESPONDENT
Frédéric Morand

SOLICITORS OF RECORD:

N/A FOR THE APPELLANTS
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