

Date: 20200904

Docket: A-78-20

Citation: 2020 FCA 138

[ENGLISH TRANSLATION]

**CORAM: BOIVIN J.A.
RIVOALEN J.A.
LEBLANC J.A.**

BETWEEN:

ROUMÈNE BONEV

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on September 4, 2020.

REASONS FOR ORDER:

LEBLANC J.A.

CONCURRED IN BY:

**BOIVIN J.A.
RIVOALEN J.A.**

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REASONS FOR ORDER

LEBLANC J.A.

[1] This is a motion by the respondent to obtain the preliminary dismissal of the appeal from a judgment rendered orally by Justice St-Hilaire of the Tax Court of Canada (TCC) on February 6, 2020, as part of an informal procedure under the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.).

[2] In that judgment, the TCC granted the respondent's preliminary motion to quash the assessment appeal that the appellant brought before it on the ground that it did not have jurisdiction to hear it. According to the TCC, this lack of jurisdiction resulted from the fact that the notice of assessment in dispute showed a nil balance and that the TCC did not have the authority to rule on the other remedies sought by the appellant.

[3] The other remedies sought were the imposition of disciplinary and criminal sentences on the Canada Revenue Agency (CRA) for harassment, aggression, intimidation, abuse and discrimination, the awarding of financial compensation for those wrongful act, the launching of a public inquiry into the CRA's actions, and the publication of the calculation algorithms for the old age pension supplement and the goods and services tax credit.

[4] In his notice of appeal, the appellant seeks the following, in addition to having his appeal allowed:

[TRANSLATION]

That the Court of Appeal be equipped with the jurisdiction necessary (not with the limited jurisdiction of the TCC) to consider the various facets of this dispute in all their complexity and rule definitively on them.

That the Tax Court of Canada's judgment be completely overturned to acknowledge the presence of serious irregularities in the presentation of the facts by the defence.

That all of the elements of the charge presented in the document entitled [TRANSLATION] "SALIENT FACTS OF THE CHARGE" be heard, addressed and reconsidered with the full jurisdiction and impartiality of the Court of Appeal and that all of my pieces of evidence be accepted (they were dismissed by the TCC).

That the Court of Appeal be open to ruling on the acts of aggression, intimidation, abuse, discrimination and harassment (up to and including violating the human rights charter) intentionally committed by the CRA.

That the Court of Appeal rule on the fraudulent actions of the defence (explained in detail in the grounds for appeal) that led the TCC to render a decision vitiated by errors.

That the Court of Appeal's judgment be rendered (if possible) at a new hearing in the presence of two of the appellant's key witnesses who represent the Canada Revenue Agency: Bob Hamilton and Catalina Silvia Tempea.

That the Court of Appeal rule on and consider my requests:

- To proceed with disciplinary and criminal sentences for the repetitive acts of aggression, intimidation, abuse, discrimination and harassment knowingly and intentionally committed by the CRA;
- To award me financial compensation (actual and exemplary damages) for everything that happened;
- To order the CRA to publish the calculation algorithms for the old age pension supplement and the GST credit;
- To launch a public inquiry into the CRA, which could lead to a class action.

[5] The respondent submits that it is plain and obvious that this appeal is bound to fail because it is well established that a nil assessment (i.e., an assessment that shows a nil balance) cannot be appealed before the TCC and that this Court, with respect to the other remedies sought by the appellant, cannot, in the context of an appeal under section 27 of the *Federal Courts Act*, R.S.C. 1985, c. F-7, exercise, in place of the TCC, powers that the TCC does not have or exercise powers that it itself does not have.

[6] I agree. The standard for a preliminary dismissal of an appeal before this Court is certainly high (*Lessard-Gauvin v. Canada (Attorney General)*, 2013 FCA 147, at para. 8), but it is met in this case because it is plain and obvious on the face of the record before us that this appeal has no reasonable chance of success.

[7] It is important to note from the outset that the TCC's jurisdiction in the context of an appeal of an assessment is limited to determining whether the assessment at issue complies with

the law based on the facts and the applicable legislation (*Lassonde v. Canada*, 2005 FCA 323, at para. 3). Thus, the right to appeal to the TCC can only be exercised to have the assessment vacated or varied, which means that unless the taxpayer challenges the taxes, interest or penalties payable under the assessment, “there is nothing to appeal and indeed no relief which the [TCC] can provide” (*Canada v. Interior Savings Credit Union*, 2007 FCA 151, at para. 15 (*Interior Savings*)).

[8] It follows that there is no right of appeal from an assessment that indicates, as in this case, that no tax is payable since “any other objection but one related to an amount claimed [as taxes] was lacking the object giving rise to the right of appeal” (*Interior Savings* at para. 17). The TCC was therefore correct, here, to conclude that it did not have jurisdiction to hear the appellant’s appeal of the assessment because the notice of assessment at issue indicated that no tax was payable. The fact that a notice of reassessment was issued in August 2019 to correct an error that the CRA committed in computing the appellant’s total income is of no relevance in this case because it did not change the fact that the notice of assessment indicated that no tax was payable.

[9] That aspect of the TCC’s decision, when examined in light of the applicable law, is unassailable with the result that the appellant’s appeal is clearly bound to fail.

[10] The same is true of the aspect of this appeal based on the other remedies sought by the appellant. Neither the TCC nor this Court has the authority to grant them, even supposing that the facts underlying those remedies are well-founded. As stated earlier, the requests are well

beyond the TCC's jurisdiction, which is limited to determining whether the assessment at issue complies with the law based on the facts and the applicable legislation. The conduct of a tax official who authorizes an assessment is not relevant to that purpose and, therefore, to what the TCC must determine (*Ereiser v. Canada*, 2013 FCA 20, at paras. 20 and 31).

[11] The jurisdiction of this Court, when sitting on appeal from a decision of the TCC, is to determine the merits of the TCC's decision with respect to whether the assessment at issue complies with the facts and the applicable legislation. In this context, it clearly does not have the powers that the appellant is asking it to exercise with regard to the remedies that he is seeking in the second aspect of his appeal. In other words, in this case, it does not have the authority to identify instances of harassment, criminal or otherwise, discrimination or abuse, to order the payment of damages and interest or the publication of algorithms, or to order a public inquiry into the CRA's actions in respect of the appellant.

[12] Insofar as the appellant takes issue with the way the CRA allegedly acted in respect of him, it is by other means—and likely in another forum—that he will have to make his recriminations. One thing is certain: it is not before the TCC, in an appeal from an assessment, or before this Court, in an appeal from a decision of the TCC, that his accusations against the CRA may be validly made and debated.

[13] For all of these reasons, I propose to allow the respondent's motion and to dismiss the appellant's appeal, with costs.

“René LeBlanc”

J.A.

“I agree.

Richard Boivin J.A.”

“I agree.

Marianne Rivoalen J.A.”

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET:

A-78-20

STYLE OF CAUSE:

ROUMÈNE BONEV v. HER
MAJESTY THE QUEEN

DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES

REASONS FOR ORDER:

LEBLANC J.A.

CONCURRED IN BY:

BOIVIN J.A.
RIVOALEN J.A.

DATED:

SEPTEMBER 4, 2020

WRITTEN REPRESENTATIONS:

Roumène Bonev

FOR THE APPELLANT
(representing himself)

Julien Wohlhuter
Vlad Zolia

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Nathalie G. Drouin
Deputy Attorney General of Canada

FOR THE RESPONDENT