

Federal Court of Appeal



Cour d'appel fédérale

Date: 20240116

Docket: A-225-22

Citation: 2024 FCA 13

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

BETWEEN:

MIDJOHODO FRANCK GLOGLO

Appellant

and

MINISTER OF NATIONAL REVENUE

Respondent

Heard at Montréal, Quebec, on January 16, 2024.

Judgment delivered from the Bench at Montréal, Quebec, on January 16, 2024.

REASONS FOR JUDGMENT OF THE COURT BY:

HECKMAN J.A.

Federal Court of Appeal



Cour d'appel fédérale

Date: 20240116

Docket: A-225-22

Citation: 2024 FCA 13

CORAM: BOIVIN J.A.
LEBLANC J.A.
HECKMAN J.A.

BETWEEN:

MIDJOHODO FRANCK GLOGLO

Appellant

and

MINISTER OF NATIONAL REVENUE

Respondent

REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Montréal, Quebec, on January 16, 2024).

HECKMAN J.A.

[1] We have before us an appeal from a judgment of the Tax Court in *Midjohodo Franck Gloglo v. The Minister of National Revenue* (October 6, 2022), 2022–379 (CPP) (TCC) (*per* St Hilaire J.) granting the respondent's motion to quash the appellant's appeal to the Tax Court under the *Canada Pension Plan*, R.S.C. 1985, c. C-8 (CPP), and dismissing the appeal.

[2] Essentially, the appellant is seeking a transfer of contributions made to the Irish Single Public Service Pension Scheme in the course of his employment with University College Dublin for the period of November 1, 2019 to August 31, 2020, to the Canada Pension Plan.

[3] The standard of review on this appeal is correctness for a question of law, and palpable and overriding error for a question of fact or mixed fact and law, where there is no extricable question of law: *Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235. An error is palpable when it is plainly seen, and overriding when it affects the result: *Canadian Imperial Bank of Commerce v. Canada*, 2021 FCA 10, 456 D.L.R. (4th) 722 at para. 55.

[4] We see no error that warrants our intervention. Section 26.1 of the CPP allows a request to be made to a CRA officer to rule on certain questions, including whether an employment is pensionable. A person concerned by the ruling may appeal it to the Minister under section 27. A person affected by a decision of the Minister under section 27 may, under section 28, appeal that decision to the Tax Court, which may vacate, confirm or vary the decision. It was open to the Tax Court, on the evidentiary record before it, to determine that there was no decision of the Minister under section 27, particularly given the appellant's acknowledgement of this fact at the hearing before the Tax Court.

[5] The Tax Court of Canada is a statutory court. It derives its jurisdiction from statutory sources, such as the CPP. In this respect, the decision of the Supreme Court of Canada in *Chaput v. Romain*, 1955 CanLII 74 (SCC), [1955] S.C.R. 834, is of no assistance to the appellant.

[6] Considering, without deciding, the appellant's argument that the Minister's alleged inaction regarding his request for a transfer of his contributions to the Irish Single Public Service Pension Scheme to the Canada Pension Plan provides him with a cause of action against the Minister, the Tax Court did not err in deciding that, in the absence of a section 27 decision, it had no jurisdiction under section 28 of the CPP to hear the appellant's appeal. This appeal will therefore be dismissed, with costs.

“Gerald Heckman”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-225-22

STYLE OF CAUSE: MIDJOHODO FRANCK
GLOGLO v. MINISTER OF
NATIONAL REVENUE

PLACE OF HEARING: MONTRÉAL, QUEBEC

DATE OF HEARING: JANUARY 16, 2024

**REASONS FOR JUDGMENT OF THE COURT
BY:** BOIVIN J.A.
LEBLANC J.A.
HECKMAN J.A.

DELIVERED FROM THE BENCH BY: HECKMAN J.A.

APPEARANCES:

Midjohodo Franck Gloglo FOR THE APPELLANT
(ON HIS OWN BEHALF)

Noémie Vespignani FOR THE RESPONDENT

SOLICITORS OF RECORD:

Shalene Curtis-Micallef FOR THE RESPONDENT
Deputy Attorney General of Canada