

Federal Court of Appeal



Cour d'appel fédérale

Date: 20121218

Docket: A-183-11

Citation: 2012 FCA 331

**CORAM: BLAIS C.J.
PELLETIER J.A.
TRUDEL J.A.**

BETWEEN:

MARIE-BLANCHE MAILLOUX

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Quebec City, Quebec, on December 11, 2012.

Judgment delivered at Ottawa, Ontario, on December 18, 2012.

REASONS FOR JUDGMENT BY:

BLAIS C.J.

CONCURRED IN BY:

**PELLETIER J.A.
TRUDEL J.A.**

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REASONS FOR JUDGMENT

BLAIS C.J.

[1] In this case, the Tax Court of Canada issued a consent judgment on September 27, 2007 (Docket 2005-418(IT)G).

[2] The consent judgment fixed, for the appellant's 1998 and 1999 taxation years, the taxable capital gains on the sale of a farm (including the land and livestock) as well as a rental property that belonged to the appellant.

[3] The Canada Revenue Agency subsequently issued reassessments that took the judgment into account.

[4] Dissatisfied with the reassessments, the appellant filed an objection thereto, maintaining that they did not take into account everything stated in the consent judgment of September 14, 2007.

[5] At the hearing before the Tax Court of Canada, the appellant submitted that the wrong price had been established for the livestock, and, arguing that the consent judgment had not been signed in a free and informed manner, she wanted to file new evidence to establish the purchase price of the livestock.

[6] The respondent refuted the appellant's allegations that she had not given free and voluntary consent, adding that *res judicata* applied and that the appellant could not file new evidence with a view to having her consent judgment set aside.

[7] The Tax Court judge held that the appellant had signed the consent judgment freely and voluntarily. Three weeks had passed between the settlement offer and its acceptance by the appellant, who had been advised by her niece, an experienced tax professional. Furthermore, the discussions between the appellant and the Canada Revenue Agency representatives, and the data collection by those representatives had taken place over the course of several months before, having begun in the summer of 2006 (transcript of the hearing before the Tax Court of Canada, testimony of Mr. Bouchard, at page 86).

[8] This Court has consistently held that when a person consents to an agreement that is later confirmed by a judgment, there is *res judicata*, and, barring exceptional circumstances, there can be no new intervention.

[9] In my view, the Tax Court judge committed no reviewable error, and his decision should be upheld.

[10] Accordingly, I would dismiss the appeal with costs.

“Pierre Blais”
Chief Justice

“I concur.
J.D. Denis Pelletier J.A.”

“I concur.
Johanne Trudel J.A.”

Certified true translation
Erich Klein

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKET: A-183-11

STYLE OF CAUSE: Marie-Blanche Mailloux v.
Her Majesty the Queen

PLACE OF HEARING: Quebec City, Quebec

DATE OF HEARING: December 11, 2012

REASONS FOR JUDGMENT BY: BLAIS C.J.

CONCURRED IN BY: PELLETIER J.A.
TRUDEL J.A.

DATED: December 18, 2012

APPEARANCES:

Marie-Blanche Mailloux FOR THE APPELLANT

Dany Leduc FOR THE RESPONDENT

SOLICITORS OF RECORD:

N/A FOR THE APPELLANT

William F. Pentney
Deputy Attorney General of Canada FOR THE RESPONDENT