Federal Court of Appeal  Cour d'appel fédérale

Date: 20160229

Docket: A-102-15

Citation: 2016 FCA 64

CORAM: **NOËL C.J.**
SCOTT J.A.
DE MONTIGNY J.A.

BETWEEN:

GLEN FRENCH

And the other appellants listed in the "Revised Schedule A"

Appellants

and

HER MAJESTY THE QUEEN

Respondent

Heard at Montréal, Quebec, on February 11, 2016.

Judgment delivered at Ottawa, Ontario, on February 29, 2016.

REASONS FOR JUDGMENT BY: NOËL C.J.

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

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REASONS FOR JUDGMENT

NOËL C.J.

[1] These appeals brought by Glen French (Mr. French or the appellant) and 41 other appellants listed in Revised Schedule A are from an interlocutory order issued by the Tax Court of Canada (2015 TCC 35) wherein C. Miller J. (the Tax Court judge) allowed a motion by Her Majesty the Queen (the respondent) to strike a plea in the appellants' respective Amended

Notices of Appeal. The plea in question invokes sections 8.1 and 8.2 of the *Interpretation Act*, R.S.C. 1985, c. I-21 (the *Interpretation Act*) and alleges that in assessing the legal validity of a gift under the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.) (the *ITA*), Parliament intended that a uniform concept of gift in line with the civil law of the Province of Québec be applied across Canada.

[2] The 42 appeals were consolidated by order of this Court issued on April 22, 2015, Mr. French being designated as the lead appellant. In conformity with this order, the reasons which follow will be filed in docket A-102-15 and copy thereof will be filed as reasons for judgment in each of the consolidated appeals.

[3] The legislative provisions which are relevant to the analysis are set out in Annex I to these reasons.

I. BACKGROUND

[4] The assessments in issue disallow in whole the appellant's claimed tax credits with respect to alleged gifts made to Ideas Canada Foundation, a registered charity, pursuant to section 118.1 of the *ITA*. Mr. French contends that he made such gifts during the 2000, 2001 and 2002 taxation years. A portion of Mr. French's gifts was made from his personal funds while the remainder was funded by loans tied to the gifts.

[5] Mr. French's primary position is that he is entitled to the full amount of the claimed tax credits. He further maintains in the alternative that he is entitled to the tax credits claimed in

respect of the portion of the gifts that exceeded the value of any consideration he would have received in the process. In making the latter argument Mr. French invokes the civil law of the Province of Quebec even though none of the purported donations were made in that province. The plea in question reads:

PART III – STATUTORY PROVISIONS AND REASONS

18. The Appellant relies, *inter alia*, on … article 1810 of the *Civil Code of Québec* ("*CCQ*") and sections 8.1 and 8.2 of the *Interpretation Act*, R.S.C. 1985, c. I-21 ("*Interpretation Act*").

…

Partial Deduction

23. In the alternative, the Appellant should be entitled to a deduction for that portion of each of the Donations that exceeded the value of any benefit or remuneration obtained from each of the Donations (excluding the value of any tax advantage).

24. Under the civil law, Article 1810 of the *CCQ* expressly provides that "a remunerative gift … constitutes a gift … for the value in excess of that of the remuneration". Consequently, to the extent that the Loans or some aspect thereof may have constituted remuneration to the Appellant, the Donations less the remuneration constituted a "gift" in Québec through operation of sections 8.1 and 8.2 of the *Interpretation Act*.

25. Had the Appellant been resident of Québec during the Taxation Years, he would unquestionably be entitled under section 118.1 of the Act to a deduction of the portion of the Donations in excess of the remuneration.

26. Parliament did not intend for section 118.1 of the Act to produce radically different results for taxpayers in Québec that would not apply to taxpayers in the rest of Canada.

…

PART IV – RELIEF SOUGHT

28. For these reasons, the Appellant asks this Court to:

...

REFER the matter back to the CRA for reconsideration and reassessment … on the basis that the Appellant was entitled to deduct the portion of the Tax Credits

> attributable to the portion of the Donations in excess of any benefit or remuneration received by the Appellant for the Donations;

[6] The Tax Court judge struck the above plea pursuant to rule 53(1)(*d*) of the *Tax Court of Canada Rules (General Procedure)*, SOR 90/688a (*TCC Rules*), on the basis that it was doomed to fail. For the reasons which follow, I have come to the view that it is not plain and obvious that the impugned plea cannot succeed and that the appeal should accordingly be allowed.

II. DECISION OF THE TAX COURT JUDGE

[7] The Tax Court judge first emphasized the high threshold that must be met before a plea can be struck under rule 53(1) of the *TCC Rules*, i.e.: it must be plain and obvious that it has no chance of success. He then went on to examine whether this was the case.

[8] He rejected the proposition that one may resort to the civil law of Quebec to determine when a gift arises for purposes of applying the *ITA* outside of the Province of Quebec. Sections 8.1 and 8.2 of the *Interpretation Act* ensure that civil law is not applied in the rest of Canada and that common law is not applied in Quebec when private law concepts of the two legal systems are called into play, which, the Tax Court judge held, "is the very situation before me" (Reasons at para. 13). He added that nothing in the preamble to the *Federal Law–Civil Law Harmonization Act, No. 1*, S.C. 2001, c. 4, which amended the *Interpretation Act* by introducing sections 8.1 and 8.2, "invites one, as an interpreter of federal legislation, to ignore common law in favour of civil law or *vice versa*: indeed, quite the opposite" (Reasons at para. 16).

[9] In any event, he took the view that there was no need to resort to the civil law, for the common law meaning of "gift" has been clearly established in the case law. In particular, he pointed to the definition set out in *Friedberg v. R.*, [1992] 1 C.T.C. 1 (Fed. A.D.) at para. 4 [*Friedberg*] and taken up in *Maréchaux v. Canada*, 2010 FCA 287 at para. 3 [*Maréchaux FCA*]:

> … a gift is a voluntary transfer of property owned by a donor to a donee, in return for which no benefit or consideration flows to the donor.
>
> [My emphasis]

[10] Accordingly, the Tax Court judge discarded the appellant's contention that where the requisite intent is present, the common law arguably recognizes as a gift a transfer of property for partial consideration (herein a split or remunerative gift), holding that such a proposition cannot be sustained given the decisions of this Court in *Maréchaux FCA*, *Kossow v. Canada*, 2013 FCA 283 [*Kossow FCA*], and *Canada v. Berg*, 2014 FCA 25 [*Berg FCA*] (Reasons at para. 19):

> The Appellants suggest that common law has acknowledged the concept of split receipting for a long time (see for example *Woolner v Canada*, [1997] T.C.J. No. 1395). I presume this is raised to convince me that the common law concept of gift is murky. Reliance on *Woolner* does not justify looking to Québec law, but goes more to the Appellants' view of the correctness of the *Maréchaux* [*FCA*], *Kossow* [*FCA*] and … *Berg* [*FCA*] … decisions. Again, it certainly does not sway me that there is any confusion with respect to the common law meaning of "gift".

[11] The Tax Court judge dismissed the idea that bijuralism could entail the principle of uniformity, noting that it is neither its objective nor where it is heading as a legal doctrine (Reasons at para. 14):

> The Appellants' contention that Parliament did not intend section 118.1 of the Act to produce radically different results simply has no foundation in the law, notwithstanding it may be supportable by common sense. It is not an argument.

[12] He found support in the December 2002 amendments to the *ITA* "allowing a tax credit for certain 'gifts' that would be invalid under private law solely because the taxpayer has received a benefit in return for making the gift" (Reasons at para. 23). These amendments were enacted in 2013 with an effective date of December 21, 2002 (the 2002 amendments). The Tax Court judge explained that by providing a result more clearly reflecting the civil law concept of remunerative gift, the 2002 amendments "legislatively dissociates the common law meaning of gift from the federal legislation" (Reasons at para. 23).

[13] As to the appellant's argument that the 2002 amendments were meant to clarify the law rather than change it, the Tax Court judge relied on the October 2012 Department of Finance's Explanatory Notes introducing these amendments which recognize that a sale at less than fair market value could be treated in part as a gift pursuant to the civil law, but not the common law. By identifying situations in which the charitable donation tax credit will be available, notwithstanding benefits received by the donor taxpayer, Parliament has clearly changed the law (Reasons at para. 24).

[14] Unable to perceive "a glimmer of a legal basis" upon which the appellant could build an argument based on sections 8.1 and 8.2 of the *Interpretation Act*, the Tax Court judge concluded that allowing the appellant to pursue such an argument would be a waste of time for all the stakeholders involved (Reasons at para. 26).

III. THE POSITION OF THE APPELLANT

[15] The appellant argues that the Tax Court judge's decision is based on a misunderstanding of the purpose and scope of sections 8.1 and 8.2 of the *Interpretation Act*. He asserts that this Court has repeatedly favoured an interpretation of federal legislation that accords with both common law and civil law traditions while still reaching a reasonably uniform result across Canada, citing, *inter alia*, *Grimard v. Canada*, 2009 FCA 47 [*Grimard*] and *Canada v. 9101-2310 Québec inc.*, 2013 FCA 241 [*9101-2310 Québec inc.*].

[16] Relying on, *inter alia*, *The Queen v. Zandstra*, [1974] C.T.C. 503 (Fed. T.D.) [*Zandstra*] and *Woolner v. R.*, [1999] 4 C.T.C. 2512 (T.C.C.) [*Woolner*], aff'd [2000] 1 C.T.C. 35 (Fed. A.D.) [*Woolner FCA*], the appellant submits that the case law is not as clear as the Tax Court judge found. Consistent with this position, he argues that the purpose of the 2002 amendments was to clarify the state of the law rather than change it.

[17] To the extent that prior decisions of this Court preclude split gifting in the common law provinces, the appellant asks that they be reconsidered as they give rise to a result that is contrary to what Parliament intended. Specifically, these prior decisions did not consider sections 8.1 and 8.2 of the *Interpretation Act* and the impact of the civil law on the construction of the word "gift" as it is used in subsection 118.1(3) of the Act.

[18] The appellant also provides two alternative grounds on which this Court should allow the appeal, at least with respect to the prayer for relief set out in paragraph 28 of Mr. French's

Amended Notice of Appeal. First, in the event that the general anti-avoidance rule applies, the resulting tax consequences pursuant to subsection 245(2) of the *ITA* would require recognition of the split gift and the tax credits which correspond to the cash portion of the gift. Second, should the Court determine that the loans constituted a benefit, the appellant submits that the cash portion of the transfer should be treated separately as a gift, on the basis of the rule set out in *Barclays Bank Ltd. v. Quistclose Investments Ltd.*, [1968] 3 All. E.R. 651 (H.L.), thereby allowing the appellant to claim the corresponding tax credits.

IV. THE POSITION OF THE RESPONDENT

[19] The respondent submits that the Tax Court judge's decision to strike portions of the appellant's pleadings is discretionary, involves a question of mixed fact and law, and should not therefore be interfered with absent a palpable and overriding error, unless it contains an extricable error of law.

[20] The respondent contends that the Tax Court judge applied the correct test and arrived at the right conclusion. Specifically, he was correct in holding that sections 8.1 and 8.2 of the *Interpretation Act*, in this case, called for the applicable private law concept of "gift", which for the appellant means the common law concept of "gift". Indeed, section 118.1 of the *ITA* does not direct the use of civil law in the common law provinces for the purpose of the definition of "gift".

[21] Relying on *Maréchaux FCA*, *Kossow FCA*, *Berg FCA*, and *McNamee v. McNamee*, 2011 ONCA 533, the respondent argues that, contrary to the civil law concept of remunerative gift

permitting a transaction to be split into a gift component and a non-gift component, "in the common law, generally speaking any material benefit received by the donor in return for a gift will vitiate the gift" (respondent's memorandum of fact and law at para. 33).

[22] The respondent rejects the appellant's proposition that uniformity is a principle codified in the *Interpretation Act*. On the contrary, sections 8.1 and 8.2 of the *Interpretation Act* acknowledge that the recognition of bijuralism and complementary can lead to different results in applying federal legislation. Indeed, these sections ensure the integrity not only of the civil law tradition, but also of the common law tradition.

[23] The respondent disagrees with the contention that Courts have taken an interpretative approach melding common law and civil law concepts so as to achieve uniform results across Canada. In so arguing, the respondent cites, *inter alia*, *Caisse populaire Desjardins de l'Est de Drummond v. Canada*, 2009 SCC 29, *Grimard*, and *9101-2310 Québec inc.*, arguing that these decisions actually undermine the appellant's submissions.

[24] While Parliament can derogate from the private law of the provinces, by way of dissociation, it has not done so with respect to the meaning of "gift" in section 118.1 of the *ITA*. This changed as a result of the 2002 amendments. Reiterating the Tax Court judge's reasons, the respondent argues that the Department of Finance, in the Explanatory Notes relating to these amendments, recognized that prior to the effective date of the amendments, any consideration would have vitiated a gift at common law. As the 2002 amendments were not in effect when Mr. French's purported gifts were made, it follows that the appeal must be dismissed.

V. ANALYSIS

[25] On a motion to strike pursuant to rule 53(1)(*d*) of the *TCC Rules*, the question which arises is whether it is plain and obvious that the argument has no reasonable prospect of success (*R. v. Imperial Tobacco Canada Ltd.*, 2011 SCC 42 at para. 17).

[26] The Tax Court judge's decision allowing the motion to strike is discretionary in nature. Absent a legal error or an error in legal principle, the appellant must show a readily apparent error that could change the result of the case (*Turmel v. Canada*, 2016 FCA 9; *Imperial Manufacturing Group Inc. v. Decor Grates Incorporated*, 2015 FCA 100, applying *Housen v. Nikolaisen*, 2002 SCC 33). In my view, such a readily apparent and determinative error has been demonstrated.

[27] The issue in the present appeal is whether it is arguable when regard is had to sections 8.1 and 8.2 of the *Interpretation Act* that Parliament intended the word "gift" as it is used in subsection 118.1(3), to encompass split gifts, in line with the notion recognized by the civil law. The task in ascertaining Parliament's intent is always the same. One must read the provision in context and give the words a meaning that is harmonious with the scheme of the act, its object and the intention of Parliament (*Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 S.C.R. 27).

[28] The Tax Court judge correctly postulated that the starting point of the analysis pursuant to sections 8.1 and 8.2 of the *Interpretation Act* is that effect be given to the private law governing a transaction "unless otherwise provided by law". He went on to discard as "hopeless"

the contention that prior to the 2002 amendments Parliament could have intended to exclude the common law meaning of "gift" in favour of the civil law definition (Reasons at para. 22). Only as a result of these amendments can it be said that Parliament provided otherwise by recognizing split gifts, wherever made (Reasons, para. 24).

[29] In so holding, the Tax Court judge reasoned that if the purpose and effect of the 2002 amendments was to change the law in order to allow for split gifts, it necessarily followed that no such gift could be recognized prior to the coming into force of these amendments. Hence the conviction with which he found that the appellant's plea had no chance of success (Reasons, paras. 25 and 26).

[30] The Tax Court judge found support in his assessment of the purpose of the 2002 amendments in the Explanatory Notes which accompanied the 2002 amendments. In his view, these notes make it clear that the purpose was to recognize a form of gift which had no validity under the prior law**.** His exact words are as follows (Reasons at para. 24):

> Even in the Department of Finance's own Explanatory Notes introducing the [2002] amendments it is recognized that a sale at less than fair market value could be treated in part as a gift in civil law, but not in common law. The [2002] amendments have clearly changed the law by identifying situations in which the charitable donation tax credit will be available, notwithstanding benefits received by the donor taxpayer.

[31] Consistent with this reading of the Explanatory Notes and his assessment of the purpose of the 2002 amendments, the Tax Court judge rejected any suggestion that the prior jurisprudence could be read as recognizing the validity of split gifts or was in any way "murky" in this regard (Reasons at para. 19).

[32] I will first address the Tax Court judge's reading of the Explanatory Notes. These notes, after recognizing that "[a]t common law the presence of a consideration of any value whatsoever makes a gift impossible" and that "[a]s such, at common law a contract to dispose of a property to a charity at a price below fair market value would not generally be considered to include a gift", go on to state that "[n]evertheless, there have been certain decisions made under the common law where it has been found that a transfer of property to a charity was made partly in consideration for services and partly as a gift". That is the context in which it is later stated that "[s]ubsections 248(30), (31) and (32) are added to that Act to clarify the circumstances under which taxpayers and donees may be eligible for tax benefits available under the Act in respect of the impoverishment of a taxpayer in favour of a donee" [my emphasis].

[33] On a plain reading, the Explanatory Notes suggest that the state of the jurisprudence in the common law provinces was not as certain as the Tax Court judge held and that there was a need for clarification. An examination of the case law supports that view.

[34] I begin by noting that the often-cited definition of "gift" set out in *Friedberg* does not exclude the possibility that Parliament intended the meaning of "gift" to extend to split gifts. While the Court did state that "a gift is a voluntary transfer of property owned by a donor to a donee, in return for which no benefit or consideration flows to the donor" (at para. 4), *Friedberg* was not a split gifting case. At no point did the Court address the question whether, in the presence of the requisite donative intent, partial consideration necessarily vitiates a gift.

[35] In fact, neither *Zandstra* nor *The Queen v. McBurney*, [1985] 2 C.T.C. 214 (Fed. A.D.) [*McBurney*], which are both referred to in *Friedberg* (at para. 4), stand for the proposition that consideration received by a donor vitiates the whole gift. On the contrary, the Court in *McBurney* acknowledged the existence of a split gift (*McBurney* at para. 19) and the Court in *Zandstra* indicates, without expressing any form of disagreement, that the underlying assessments recognize the validity of a split gift (*Zandstra* at paras. 9 and 10).

[36] It is noteworthy that the *ratio decidendi* of *Zandstra* and *McBurney* was more recently adopted by this Court in *Woolner FCA*. In that case, the Tax Court concluded that donations made over and beyond the secular tuition fees were "gifts" within the meaning of subsection 118.1(3) of the *ITA*, thereby recognizing what was in effect a split gift. While the issue on appeal turned on whether the disallowed portion for secular tuition fees should be treated as a gift, at no point did this Court question the Tax Court's recognition of the gift component (*Woolner FCA* at paras. 2, 6 and 14).

[37] The Tax Court judge viewed the appellant's reliance on *Woolner* as an attempt to question "the correctness of the *Maréchaux* [*FCA*], *Kossow* [*FCA*] and … *Berg* [*FCA*] … decisions" (Reasons at para. 19). According to him, these three cases which postdate *Woolner* did away with any possibility that a split gift be recognized in applying the *ITA* in the common law provinces (Reasons at paras. 19, 23 and 24). Again, this requires that we take a closer look at these decisions.

[38] The decision of this Court in *Maréchaux FCA* involved a leveraged charitable donation scheme whereby Mr. Maréchaux transferred $100,000 to a registered charity and received the corresponding charitable donation tax receipt. Out of the $100,000 transferred, $20,000 came from his own money while the remaining $80,000 came from an interest-free loan. In upholding the Tax Court's decision, denying the tax credit claimed, this Court endorsed paragraph 49 of Woods J.'s reasons holding that the $20,000 portion of the transfer lacked the requisite donative intent (*Maréchaux FCA* at para. 12):

> There is just one interconnected transaction here, and no part of it can be considered a gift that the appellant gave in expectation of no return.
>
> [My emphasis]

[39] Therefore, it is not clear that the decision of the Tax Court in *Maréchaux v. R.*, 2009 TCC 587 [*Maréchaux TCC*], as confirmed by this Court, rejected split gifting. On the contrary, Woods J.'s statement, which this Court did not comment on one way or the other, appeared to leave the question open in stressing that "[i]n some circumstances, it may be appropriate to separate a transaction into two parts, such that there is in part a gift, and in part something else" (*Maréchaux TCC* at para. 48).

[40] *Maréchaux FCA* was later discussed in *Kossow v. Canada*, 2012 TCC 325 [*Kossow TCC*] where a similar leveraged charitable donation scheme was before the Court. The issue was whether *Maréchaux FCA* was dispositive of the appeal. Like Mr. Maréchaux, Ms. Kossow argued, among other things, that a gift should be recognized for the $10,000 cash portion of her transfer to the registered charity. At the Tax Court, V. Miller J. dismissed this argument concluding that, as in *Maréchaux FCA*, "[n]o part of the Donation was given as a gift without

expectation of a return" [my emphasis] (*Kossow TCC* at para. 75). This Court upheld that decision on the same basis. Again, the Court made no firm pronouncement on the question whether a split gift could validly be made.

[41] Lastly, in *Berg FCA*, the issue of split gifting was not raised. The Court simply found that Mr. Berg had received consideration for his alleged gift (*Berg FCA* at para. 28) and that he did not have the required donative intent (*ibidem* at para. 29).

[42] In short, it cannot be said with certainty that the meaning of "gift" prior to the 2002 amendments excluded the notion of split gift in the common law provinces and that the effect of these amendments was to change that state of affairs. Indeed, it is equally plausible that these amendments clarified an area of the law that was uncertain.

[43] Finally, the Tax Court judge found that a quest for uniformity in the application of federal legislation is not, in and of itself, a sufficient reason for disregarding the applicable private law. I agree. The objective of sections 8.1 and 8.2 of the *Interpretation Act* is to recognize the role of the civil law and the common law in the application of federal legislation which necessarily entails the possibility of diverging results.

[44] However, the appellant does not invoke uniformity for the sake of uniformity. The appellant's plea is based on the broader proposition that Parliament intended to recognize split gifts, wherever made, in line with the civil law. Given that it would have been open to Parliament to attribute to the word "gift" a meaning which coincides with the civil law and that it is arguable

that this is what Parliament intended, there is no basis for striking the appellant's plea at this stage of the proceedings.

[45] Having reached the conclusion that the Tax Court judge could not strike the impugned plea, it is not necessary to address the alternative grounds advanced by the appellant in support of maintaining the relief sought in paragraph 28 of the Amended Notice of Appeal.

[46] For these reasons, I would allow the appeals with one set of costs in the lead appeal, and giving the order which the Tax Court judge ought to have given, I would dismiss the respondent's motion to strike, with one set of costs.

"Marc Noël"
Chief Justice

"I agree
A. F. Scott J.A."

"I agree
Yves de Montigny J.A."

ANNEX I

RELEVANT LEGISLATIVE PROVISIONS

Income Tax Act, R.S.C. 1985 (5th Supp.), c. 1, as amended	***Loi de l'impôt sur le revenu***, L.R.C. 1985 (5^{e} supp.), c. 1, telle que modifiée
Deduction by individuals for gifts	**Crédits d'impôt pour dons**
118.1 (3) For the purpose of computing the tax payable under this Part by an individual for a taxation year, there may be deducted such amount as the individual claims not exceeding the amount determined by the formula	**118.1 (3)** Un particulier peut déduire dans le calcul de son impôt payable en vertu de la présente partie pour une année d'imposition un montant qui ne dépasse pas le montant calculé selon la formule suivante :
(A × B) + [C × (D - B)]	(A × B) + [C × (D - B)]
where	où :
A is the appropriate percentage for the year;	A représente le taux de base pour l'année;
B is the lesser of $200 and the individual's total gifts for the year;	B le moins élevé de 200 $ et du total des dons du particulier pour l'année;
C is the highest percentage referred to in subsection 117(2) that applies in determining tax that might be payable under this Part for the year; and	C le taux le plus élevé, mentionné au paragraphe 117(2), applicable au calcul de l'impôt qui pourrait être payable en vertu de la présente partie pour l'année;
D is the individual's total gifts for the year.	D le total des dons du particulier pour l'année.
Interpretation Act, L.R.C. 1985, c. I-21, as amended	***Loi d'interprétation***, L.R.C. 1985, c. I-21, telle que modifiée
Duality of legal traditions and application of provincial law	**Tradition bijuridique et application du droit provincial**
8.1 Both the common law and the civil law are equally authoritative and recognized sources of the law of property and civil rights in Canada	**8.1** Le droit civil et la common law font pareillement autorité et sont tous deux sources de droit en matière de propriété et de droits civils au Canada

and, unless otherwise provided by law, if in interpreting an enactment it is necessary to refer to a province's rules, principles or concepts forming part of the law of property and civil rights, reference must be made to the rules, principles and concepts in force in the province at the time the enactment is being applied.

et, s'il est nécessaire de recourir à des règles, principes ou notions appartenant au domaine de la propriété et des droits civils en vue d'assurer l'application d'un texte dans une province, il faut, sauf règle de droit s'y opposant, avoir recours aux règles, principes et notions en vigueur dans cette province au moment de l'application du texte.

Terminology

8.2 Unless otherwise provided by law, when an enactment contains both civil law and common law terminology, or terminology that has a different meaning in the civil law and the common law, the civil law terminology or meaning is to be adopted in the Province of Quebec and the common law terminology or meaning is to be adopted in the other provinces.

Terminologie

8.2 Sauf règle de droit s'y opposant, est entendu dans un sens compatible avec le système juridique de la province d'application le texte qui emploie à la fois des termes propres au droit civil de la province de Québec et des termes propres à la common law des autres provinces, ou qui emploie des termes qui ont un sens différent dans l'un et l'autre de ces systèmes.

Tax Court of Canada Rules (General Procedure), SOR/90-688a, as amended

Règles de la Cour canadienne de l'impôt (procédure générale), DORS/90-688a, telles que modifiées

Striking out a Pleading or other Document

53. (1) The Court may, on its own initiative or on application by a party, strike out or expunge all or part of a pleading or other document with or without leave to amend, on the ground that the pleading or other document

Radiation d'un acte de procédure ou d'un autre document

53. (1) La Cour peut, de son propre chef ou à la demande d'une partie, radier un acte de procédure ou tout autre document ou en supprimer des passages, en tout ou en partie, avec ou sans autorisation de le modifier parce que l'acte ou le document :

…

[…]

(d) discloses no reasonable grounds for appeal or opposing the appeal.

d) ne révèle aucun moyen raisonnable d'appel ou de contestation de l'appel.

REVISED SCHEDULE A

No.	Appellant	Court File No.	Appeal Court File No.
1.	ARNOLD, Mark	2014-3347 (IT) G	A-79-15
2.	BERNSTEIN, Harry	2014-3423 (IT) G	A-77-15
3.	BERNSTEIN Martin	2014-3422 (IT) G	A-75-15
4.	BERTOLACCI, Maria	2014-3588 (IT) G	A-73-15
5.	BERTOLACCI, Paolo	2014-3590 (IT) G	A-70-15
6.	BRAGANZA, Christabel G.	2014-2879 (IT) G	A-68-15
7.	BROWN, David	2014-3083 (IT) G	A-67-15
8.	CAVANAGH-WILLIAMS Suzanne	2014-2880 (IT) G	A-65-15
9.	CLARK, David	2014-2878 (IT) G	A-92-15
10.	CLARK, Elena	2014-3432 (IT) G	A-96-15
11.	COOK, Steve	2014-1243 (IT) G	A-97-15
12.	COUTURE, Daniel	2014-1384 (IT) G	A-99-15
13.	ELLIS, John K.	2014-3498 (IT) G	A-100-15
14.	GADZIK, Theodore	2014-1242 (IT) G	A-103-15
15.	GOLDMAN, Barry	2014-3288 (IT) G	A-104-15
16.	HAMILTON, Alan J.	2014-1375 (IT) G	A-105-15
17.	HENNICK, Darryl	2014-3431 (IT) G	A-107-15
18.	HUNTER, Ronald	2014-3428 (IT) G	A-106-15
19.	KADEY, Moss	2014-3289 (IT) G	A-108-15
20.	KHUBYAR, Edna	2014-3427 (IT) G	A-95-15
21.	LABERGE, Sirkka	2014-2652 (IT) G	A-94-15
22.	LIBURDI, Joseph	2014-3346 (IT) G	A-91-15
23.	MacINTOSH, Ronald E.	2014-1373 (IT) G	A-90-15
24.	MARTEL, Jean	2014-3287 (IT) G	A-84-15
25.	MASON, Wesley	2014-1382 (IT) G	A-83-15
26.	MATHESON, Brian	2014-1383 (IT) G	A-81-15
27.	McCORMICK, John	2014-1904 (IT) G	A-80-15
28.	McCORMICK, Mary	2014-2649 (IT) G	A-78-15
29.	McMILLAN, Shane	2014-1376 (IT) G	A-76-15
30.	PEDDIE, Melvin	2014-3424 (IT) G	A-74-15
31.	PEMBERTON, Arthur	2014-3348 (IT) G	A-72-15
32.	PITCH, Harvin	2014-3349 (IT) G	A-71-15
33.	PRUTIS-MISTERSKA, Krystyna	2014-2299 (IT) G	A-69-16
34.	RASHID, Suleiman	2014-3430 (IT) G	A-66-15
35.	REDMOND, Andrew	2014-1380 (IT) G	A-93-15
36.	RINGEL, Ian	2014-1379 (IT) G	A-87-15
37.	ROSS, Stephen	2014-2773 (IT) G	A-88-15
38.	RUSSET, James P.	2014-1378 (IT) G	A-89-15
39.	SAUGSTAD, Gregory	2014-1177 (IT) G	A-86-15
40.	SOLWAY, Stephen H.	2014-3429 (IT) G	A-85-15
41.	TABAC, Ivan	2014-2651 (IT) G	A-82-15

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

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CONCURRED IN BY:	SCOTT J.A. DE MONTIGNY J.A.
DATED:	FEBRUARY 29, 2016

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