

Federal Court
of Appeal



Cour d'appel
fédérale

Date: 20120215

Docket: A-126-11

Citation: 2012 FCA 53

**CORAM: LAYDEN-STEVENSON J.A.
GAUTHIER J.A.
STRATAS J.A.**

BETWEEN:

LARRY BONTJE

Appellant

and

FORCAP INTERNATIONAL LIMITED

Appellant

and

FORCAP INTERNATIONAL INC.

Appellant

and

HER MAJESTY THE QUEEN

Respondent

Heard at Toronto, Ontario, on February 15, 2012.

Judgment delivered from the Bench at Toronto, Ontario, on February 15, 2012.

REASONS FOR JUDGMENT OF THE COURT BY:

GAUTHIER J.A.

Federal Court
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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the Bench at Toronto, Ontario, on February 15, 2012)

GAUTHIER J.A.

[1] Mr. Bontje, Forcap International Ltd. and Forcap International Inc. appeal from the decision of the Federal Court dismissing their application for judicial review of the Minister of National Revenue's decision denying their request under the Voluntary Disclosure Program because their

disclosure occurred after the initiation of an enforcement action and thus could not be considered “voluntary”.

[2] Having taken the position that the application judge erred in law on the main issues before her, in this Court the appellants essentially reargued the case they had presented to her. In its memorandum of fact and law, the respondent disagreed with the appellants’ characterization of the issues and generally supported the judge’s conclusions, except for her finding on the nature of arbitrary assessments.

[3] We express no view regarding the debate as to the nature of arbitrary assessments as the judge’s finding in that respect had no material effect on her ultimate conclusions.

[4] In our view the application judge correctly stated that the standard of review is reasonableness. Further the appellants have not convinced us that she misapplied that standard. Thus we must dismiss the appeal with costs.

“Johanne Gauthier”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-126-11

(APPEAL FROM THE ORDER OF MADAM JUSTICE SIMPSON, DATED FEBRUARY 11, 2011, IN FEDERAL COURT DOCKET NO. T-2125-09)

STYLE OF CAUSE: LARRY BONTJE AND FORCAP
INTERNATIONAL LIMITED AND FORCAP
INTERNATIONAL INC. v. HER MAJESTY THE
QUEEN

PLACE OF HEARING: Toronto, Ontario

DATE OF HEARING: February 15, 2012

**REASONS FOR JUDGMENT OF
THE COURT BY:** (LAYDEN-STEVENSON, GAUTHIER &
STRATAS JJ.A.)

DELIVERED FROM THE BENCH BY: GAUTHIER J.A.

APPEARANCES:

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Emily Hassin

Darren Prevost FOR THE RESPONDENT
Nancy Arnold

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