

IN THE COURT OF REVIEW

Appeal No.3 of 1978

**BETWEEN : RAM CHARITRA f/n Alga of 73 Knollys Street Suva,
Accountant**

APPELLANT

AND : THE COMMISSIONER OF INLAND REVENUE

RESPONDENT

Mr F A K Sherani for Appellants
Mr K J Scott for Respondent.

DECISION

The facts, which were not disputed, are that the three appellants jointly bought a property in Samabula, Suva, in 1970 for \$1,400. In 1978 they sold the land for \$9,000. After taking into account rates and other costs and expenses, the respondent assessed the appellants jointly for land sales tax pursuant to the provisions of Land Sales Act, 1974. Under section 3(2) of that Act, land sales tax is chargeable on the seller of land unless the Act otherwise provides.

The principal ground of appeal adduced by counsel for the appellant was that as section 3 of the Land Sales Act, 1974, includes the singular noun “seller” in the Land Sales Act, 1974, vis:-

“Seller” means the person from whom the land, or any estate or interest therein, passes under or by virtue of any sale or other dealing.

In the Act there is no definition of “person”, but the Interpretation Act, 1967, states that “person” includes any company or association or body of persons corporate or unincorporated. Mr Sherani submitted that the appellants were not a company, an association.

Mr Sherani submitted that section 2(2) of the Interpretation Act, 1967, which provides that in every written law, except where a contrary intention appears words and expressions in the singular include the plural, and words and expression in the plural include the singular, does not apply to words specifically defined in written laws as one

must not go beyond the definition. In other words in his view section 2(4) may be used to interpret the meaning of a word only when that word is not defined in the Act or piece of legislation under consideration.

Mr Sherani submitted that section 2(2) of the Interpretation Act, does not assist. This subsection states-

“Where any word or expression is defined in any written law, such definition shall extend, mutatis, to the grammatical variations and cognate expressions of such word or expression.”

He submitted that this subsection does not have the effect of extending a word used in the singular to its plural. On this submission, Mr Scott asked why counsel cited section 2(2) at all since he contended that section 2(4) was not relevant to words defined in statutes.

In my view the purpose of section 2(2) of the Interpretation Act is to simplify drafting and for no other reason. If there were no section 2(2), definitions would be much more verbose. While I agree with counsel for the appellants that it is not the function of this Court to protect the Commissioner of Inland Revenue, I cannot agree that any sane legislature would intend to make individual sellers or person liable for land sales tax but that two or more sellers who sell land should not be liable. If this were so, as counsel avoid land sales tax by making sure that land was jointly owed before sale.

In *Sin Poh Amalgamated (HK) Limited v Attorney General of Hong Kong* and another (1965) 1 WLR 62, the provisions of the Interpretation Ordinance of Hong Kong pursuant to which save where the contrary intention appears, words in the singular include the plural and vice versa, came under scrutiny. Section 2 of the Commissioners Powers Ordinance of Hong Kong provides that the Governor in Council shall have power to nominate and appoint Commissioners. It was held that the mere reference to the plural was not sufficient to show a contrary intention and that there was nothing inherent in the ordinance (apart from the use of the plural) in any way unsuitable to the appointment of a single commissioner and nothing in its context which could make the power to appoint a single commissioner out of accord with the intentions of the legislature.

In this appeal we have the converse situation to the case cited above. I can find nothing in the body of the Land Sales Act to support the proposition that the legislature consciously intended individual sellers should be liable to land sales tax but that joint sellers in circumstances otherwise similar should not be liable. The submission that section 2(4) of the Interpretation Act should be disregarded when a word is defined in another Act, would only be valid in my view if section 2(4) contained the following or similar words:-

***“except where a contrary intention appears and except where a word or expression is specifically defined in a written law*”**

Section 2(4) does not say this. It does not conflict with the definition of “seller” in the land Sales Act. It supplements and clarifies the definition and, as stated above, is a drafting convenience. It should be read in conjunction with the definition of “seller” in the Land Sales Act, 1974. If the legislature intended that individual sellers only should be liable to land sales tax, and that two or more persons owning land jointly not be so liable, this would have had to be expressly stated to evidence a “contrary intention” and thus exclude section 2(4) of the Interpretation Act.

To put the matter in a nutshell, I take the view that “seller” as defined in the Land Sales Act, 1974, includes “seller” and that the fact that “seller” is defined in that Act is no sufficient to exclude the provisions of section 2(4) of the Interpretation Act.

The appeal is accordingly disallowed.

Sgd: D C DUNCKLEY
(D C DUNCKLEY)
COURT OF REVIEW