

**IN THE COURT OF APPEAL OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF SRI LANKA.**

CA PHC 170/2009

PHC Badulla 63/07 Writ

Provincial Revenue
Commissioner of the Uva
Province,

Office of the Provincial
Revenue Commissioner,

Simon Pieris Memorial
Hall,

Welipara, Badulla.

And 03 others.

Respondent-Appellants

Vs.

Mohideen Pichche Jeyanul
Abdeen, 24A
Landegama, Welimada.

Petitioner-Respondent

Before : A.W.A. Salam, J. &
Sunil Rajapakshe, J.

Counsel : Nayomi Kahawita, SC for the Appellants
Respondent absent and unrepresented

Argued on : 04.06.2013

Decided on : 14.11.2013

A.W.A. Salam, J.

The petitioner-respondent (hereinafter referred to as the "respondent") filed application in the Provincial High Court of Uva Province seeking writs of *certiorari* to quash the certificates marked as P5(b) and P6(b) against the Provincial Revenue Commissioner of the Uva Province and two others.

The facts relevant to the application briefly are that the respondent purchased a property on the deed of transfer bearing No: 27989 dated 1st August 2004. The consideration mentioned in the said deed was Rs. 500,000/-. Thereafter, the seller informed the respondent that the value of property is much higher than the amount mentioned in the deed and that he sold the same for Rs. 500,000/ without proper knowledge as to the actual value. According to the information furnished by the seller to the Provincial Revenue Commissioner of the Uva Province the actual value of the land is Rs.6,000,000/-.

Subsequently, the seller filed a civil action against the respondent seeking relief under the legal concept of *laesio enormis*. In the meantime, the respondent had been issued with a letter by the Provincial Revenue Commissioner, directing his attendance at a discussion regarding the payment of proper stamp duty on the said deed. The land which is the subject matter of transfer has been assessed by the Provincial Revenue Commissioner at Rs. 15,000,000/-. The respondent by letter dated 16 December 2005 disputed the valuation. The Uva Provincial Council rejected the letter of the respondent disputing the valuation and initiated

proceedings in the Magistrate's Court based on the certificate produced as P5(b). According to the said certificate marked as P5 (b), the respondent had defaulted the payment of stamp duty in a sum of Rs. 2,377,000/-. However, at a later stage the certificate was amended on a computation of the value of the property placed at Rs. 5,500,000/-.

The respondent thereafter filed an application seeking writs of *certiorari* to have both assessments P5(b) and P6(b) quashed. The respondent's application to quash the certificates marked P5(b) and P6(b) was allowed by judgment dated 17.06.2009. Dissatisfied with the said judgment, the 1st, 2nd, 3rd and 4th respondent-appellants have preferred the present appeal to have the impugned judgment of the learned High Court quashed.

The main ground on which the Learned High Court Judge based his decision to quash both certificates P5(b) and P6(b) is that the Provincial Revenue Commissioner having assessed the Property for Rs. 15,000000/- has without giving any plausible reasons brought down the value once again to Rs. 6,000,000/-.

The learned High Court Judge has quite rightly observed that the Provincial Revenue Commissioner has failed to indicate on what basis he valued the property originally at Rs. 15,000000/- and later brought it down to Rs. 6,000,000/-.

On a perusal of the averments contained in the petition, as has been observed by the learned High Court Judge,

the Provincial Revenue Officer, having originally placed the market value of the property at Rs. 15,000,000/- has brought it down to Rs. 6,000,000/- indicating a variation of the market value in a sum of Rs. 9,000,000/-.

Quite surprisingly, no reasons have been adduced by the Provincial Revenue Commissioner for his opinion that the market value of the property should be placed at Rs. 15,000,000/-. Adding insult to injury, the Provincial Revenue Commissioner has failed to give any reason whatsoever as to the circumstances which warranted the market value to be drastically brought down to Rs. 6,000,000/- which showed a reduction of 60 percent of the original value.

The learned High Court Judge was very much influenced in granting the writs applied for by reason of the failure on the part of the Provincial Revenue Commissioner to give reasons for his opinion.

The Provincial Revenue Commissioner has filed a certificate against the respondent and while the case in the Magistrate Court was pending brought it down to Rs. 6,000,000/-. The learned High Court Judge has arrived at the finding that both certificates namely the original and the amended certificate have been filed without following any acceptable norms to ascertain the market value of the property.

It has been emphasized by the English Courts that the absolute discretion vested in any person cannot remove the need to have reasons for a particular decision. As a

rule of law, all decision makers must act fairly and rationally which would mean that they must not make decisions without reasons. It is a well established principle in administrative law that the persons affected by administrative decisions have a right to know the reasons on which the administrative decisions are based. In short, the reasons behind a particular decision is required for the information of the person affected by the decision to understand the same.

An important decision on the exercise of discretion is worth being referred to at this stage. In the case of *Roberts vs. Hopwood and others* 1925 AC page 578 at page 613 Lord Wrenbury (House of Lords) voiced his opinion as to the manner in which a discretion should be exercised, in the following words.

"The person in whom is vested a discretion must exercise his discretion upon reasonable grounds. A discretion does not empower a man to do what he likes merely because he is minded to do so-he must in the exercise of his discretion do not what he likes but what he ought. In other words, he must, by use of his reason, ascertain and follow the cause which reasons direct. He must act reasonably."

As the Provincial Revenue Commission has failed to adhere to the above standards the decision challenged before the High Court Judge is tainted with illegality and unreasonableness. Therefore, as has been observed by the

learned High Court Judge the impugned certificates are liable to be quashed.

In the circumstances, I see no reason whatsoever which compels this court to interfere with the decision of the learned High Court Judge or otherwise to reverse the same. Hence, the appeal stands dismissed without costs.

JUDGE OF THE COURT OF APPEAL

Sunil Rajapakshe, J.

I agree.

JUDGE OF THE COURT OF APPEAL

LA/-