HIS MAJESTY THE KING, ON THE INFORMATION OF THE ATTORNEY-GENERAL OF CANADA,

PLAINTIFF,

AND

JOSEPH GRIFFIN,

DEFENDANT.

1916
Feb. 21.

Expropriation—Compensation—Farm—Valuation — Quantity survey method.

The "quantity survey method" does not apply to the valuation of farm property as the basis of compensation in an expropriation thereof by the Crown. The best guide is the market value of the property as a whole, as shewn by the prices of similar properties in the immediate neighbourhood when acquired for similar purposes.

INFORMATION for the vesting of land and compensation therefor in an expropriation by the Crown.

Tried before the Honourable Mr. Justice Audette, at Quebec, February 15, 16, 18, 19, 1916.

G. G. Stuart, K.C., and *William Amyot,* for plaintiff.

L. A. Cannon, K.C., for defendant.

AUDETTE, J. (February 21, 1916) delivered judgment.

This is an information exhibited by the Attorney-General of Canada, whereby it appears, *inter alia,* that certain lands belonging to the defendant were taken and expropriated by the Crown, under the provisions of the *Expropriation Act,* for the purposes of "The Valcartier Training Camp," a public work of Canada, by depositing, on September 15th,

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1913, a plan and description of such lands in the office of the Registrar of Deeds for the County or Registration Division of Quebec.

While this property was expropriated in September, 1913, the defendant was allowed to remain in possession after that date for a long period of time, as will be hereafter mentioned.

The Crown, by the amended information, offers the sum of $4,500. The defendant, by his plea, claims the sum of $9,895.

On behalf of the defendant, witness Hayes valued the land and buildings at the sum of $8,280; witness Maher valued the same at $9,500; and witness King valued the land alone at $6,050 exclusive of the buildings, because he had been asked by the defendant not to do so. All of these valuations are inclusive of the lake. Witness King bought in Valcartier, in 1904, a 320-acre farm for $400, and sold it in 1911 or 1912 for $1,200. There is also on behalf of the defence evidence with respect to the lake, the buildings, and the masonry—together with the evidence of the defendant, and that of his wife, touching the loss and damage resulting from the expropriation.

It may be said in connection with the evidence adduced on behalf of the defendant, that to arrive at such valuation, the witnesses proceeded upon a wrong basis, as even admitted by witness Hayes when he said he never valued land in that way before. Indeed, the method followed with respect to the whole evidence adduced by the defence has practically been the "quantity survey method", a method usually followed in cases of mergers of companies only,—endeavouring to arrive at the intrinsic value of the farms and the buildings, and not at their

market value. (*The King v. Manuel*,[1] — confirmed on appeal to the Supreme Court of Canada). That evidence proceeds by valuing so many acres in severalty at so much, the buildings at so much, the chimney in the building at so much, the value of the foundation of each building, the fencing, the well, etc. Farmers, when valuing, buying or selling a farm, are in the habit of treating the property as a whole, and not by thus segregating the acreage in severalty, and separating the value of the buildings, the chimney, the carpentry, masonry of every kind and the well. An inflation of the true value of the farm, *per se*, must very naturally result from this unusual method of valuation, which is a departure from the usual course.

On behalf of the Crown, witness Colonel William McBain, valuing the farm as a whole, says it would not be possible to find a purchaser for a price beyond $2,400 for this farm, including the small lake. He also produced as Exhibit No. 2, a list of 31 properties purchased by him at Valcartier, for the purposes of the camp, some of them being in the immediate neighbourhood of this defendant's property, at an average price of between $16.57 and $17 per acre. The prices thus paid afford the best test and the safest starting point for the present enquiry into the market price of the present property. *Dodge v. The King*;[2] *Fitzpatrick v. Town of New Liskeard*.[3]

Witness Captain Arthur McBain values the farm and buildings, in 1913, at the sum of between $1,800 to $2,000. On September 9th, 1913, this last witness,

[1] 15 Can. Ex. 381, 25 D.L.R. 626.
[2] 38 Can. S.C.R. 149.
[3] 13 O.W.R. 806.

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accompanied by James Barry, called on the defendant for the purpose of opening negotiations for the purchase of this property, and Griffin then offered to sell for the sum of $2,600, stating that the farm was worth $2,000 and the lake $600. An option was not then taken, because, witness McBain says, it was considered too high at $2,600.

The defendant's property is an average farm at Valcartier. The soil is very sandy. Lot No. 30 was bequeathed to him by his father in 1890, and he bought lot No. 31 in 1883 for the sum of $100. For the farm and the buildings and all the dependencies valued as a whole, (*The King v. Kendall,*[1] affirmed on appeal), I will allow $30 an acre, which is a high price for farms in the locality, making, for the 126 acres, the sum of $3,780.

Coming to the valuation of the lake, a very small lake indeed, with part of it extending on the adjoining farm, one must be guarded against being carried away by the exaggerated valuations of some of the witnesses, who regard the lake as a sporting and fishing resort. The lake is too small for such purposes. It must, however, be admitted, that such a lake, small as it is, is of a most appreciable value on a farm, for watering cattle and other general purposes. It is somewhat better than the Woodlock Lake; and to the $30 an acre already allowed, I will add $5 (instead of $4 as in the Woodlock case) an acre as representing the additional value given to the farm by such lake, amounting to the sum of $630,—a sum even in excess of what the defendant valued it before there was any question of expropriation, when interviewed by witnesses McBain and Barry.

[1] 14 Can. Ex. 71; 8 D.L.R. 900.

The lands in question became vested in the Crown on September 15th, 1913, but the defendant was allowed to remain in possession for a long period beyond that date. He had his full crop in 1913, without any interference whatsoever. He had most of his crop in 1914, but that year he lost some oats, potatoes, turnips, turkeys, clover seed, etc., etc., and suffered some damages to his furniture occasioned by the moving, and incurred expenses with respect to moving. It is perhaps well to bear in mind the defendant also owned a farm of 270 acres at about one mile and a quarter to one mile and a half from the present property, where he could have gone at any time after the expropriation, but he chose to remain on the farm, and even resided in his house up to January 25th, 1916. He did not have the use of his farm after September 14th, 1914, but had the use of the buildings up to January 25th, 1916, and at times the use of pasture for his cattle.

It is unnecessary to go into the details of the damages claimed and which obviously result from his having remained on the property, by the tolerance of the Crown, after the date of the expropriation, excepting, however, the question of moving. And it is next to impossible to distinguish and segregate from these damages what is really referable to the grace and bounty of the Crown, from what may actually constitute a right to compensation,—and further, to segregate the value of the land from that of the buildings and the pasture with a different date from which interest should run. Therefore, it is thought advisable to allow interest on the total amount recovered from the date of the expropriation in lieu and in the nature of such damages. The allowance of the interest for the full period is of

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more benefit to the defendant than the allowance of the damages coming within a legal scope.

With respect to the notice to quit served upon the defendant in September, 1914, I will refer to what I have already said in the Woodlock case, it being unnecessary to repeat here what has already been said upon this question.

In recapitulation, I may state the assessment of the compensation, as follows:

For the farm, including the buildings thereon erected, an average price of $30 an acre for the 126 acres	$3,780.00
The lake, or part of a lake—the additional value of $5 an acre upon the whole farm.	630.00
	$4,410.00
To which should be added 10 per cent. for the compulsory taking, namely, the sum of	$ 441.00
Making the total sum of	$4,851.00

with interest thereon from the 15th day of September, 1913. The interest alone would represent a sum of about $590, which will more than cover the damages.

There will be judgment as follows:

1. The lands expropriated herein are declared vested in the Crown, from September 15th, 1913.

2. The compensation for the land and property so expropriated, with all damages resulting from the expropriation, is hereby fixed at the sum of $4,851, with interest thereon from September 15th, 1913, to the date hereof.

3. The defendant is entitled to recover from and be paid by the plaintiff the said sum of $4,851, with

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interest as above mentioned, upon giving to the Crown a good and sufficient title, free from all encumbrances whatsoever, the whole in full satisfaction for the land taken and all damages resulting from the expropriation.

4. The defendant is also entitled to his costs.

Judgment accordingly.

Solicitors for plaintiff: *Drouin & Drouin.*

Solicitors for defendant: *Taschereau, Roy, Cannon & Parent.*