IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[1978] SGHC 50

SUIT NO 557 OF 1977

Between

GROUNDS OF DECISION

Version No 1: 11 Sep 2026 (01:05 hrs)

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Goodyear Investments Pte Ltd v Lalwani &: Anor

[1978] SGHC 50

SUIT NO 557 OF 1977
A P Rajah J
26 September 1978

1 Cur Adv Vult

2 By virtue of the Secretary of the Synod of the Diocese of Singapore Ordinance, 1959 (Ordinance 37 of 1959) a piece of freehold land, in area 72,328 sq ft and marked on the Government Resurvey Map as Lot 106 TS XXVII on which had been erected Cathedral House, 83 Cavenagh Road and Cathedral Cottage, 85 Cavenagh Road, became vested in the said Secretary (the owner). Property tax for 83 and 85 Cavenagh Road was based on an annual value of $2,148 and of $4,800 respectively. It is not disputed that these two houses were demolished by the owner on 30 May 1971.

3 There are provisions in our law, namely, s 17(6), 17(7) and 17(12) of the Property Tax Act (Cap 144) (the Act) which read as follows:

> (6) When any building or any portion of a building which is liable to the payment of tax is demolished or removed, the owner shall, within fifteen days from the completion of such demolition or removal, give notice thereof in writing to the Chief Assessor.

> (7) Where any building or portion of a building is demolished or removed and no action has been taken to amend the Valuation List in respect thereof for any reason, the owner shall, at the option of the Comptroller and until any notice of demolition or removal is given -
>
> (a) continue to be liable to pay the tax in respect of such building or portion of building, as if the same had not been demolished or removed; or
>
> (b) notwithstanding that such Valuation List has not been amended be liable to pay the tax in respect of such property from the date of demolition or removal of the building, as the case may be, on the basis of any revised annual value which may be ascribed to such property in a subsequent amended Valuation List.
>
> (12) Any person who fails to give any notice required by this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand dollars.

4 It is to be noted that under s 17(7) the owner`s liability to pay any increased tax does not arise until the Comptroller has elected under s 17(7)(b). Without such election the owner continues to pay under s 17(7)(a) the same tax as before.

5 There seems to have been some misunderstanding between the owner and his architect, as to whether notice under the said s 17(6) had been given to the Chief Assessor but on such evidence as is before me it is fairly clear that no such notice was received by the Chief Assessor.

6 On 5 October 1972 the owner sold by public auction and the defendant bought the said Lot 106 TS XXVII as vacant land, less a scaled area of approximately 11,550 sq ft (hereinafter referred to as the said land), which had previously been surrendered to Government by the owner, for the sum of $1,400,000. Completion of the purchase was to take place on 6 November 1972.

Version No 1: 11 Sep 2026 (01:05 hrs)

7 Clause 5 of the Special Conditions under which the said land was sold by public auction reads as follows:

> *All Government or other notices (if any) served on before or after the date of sale shall be complied with by and at the expense of the purchaser. Intending purchasers shall make their own enquiries in respect thereof and the purchaser shall be deemed to have knowledge of the same (if any).*

8 On 28 May 1973 the defendant entered into an agreement in writing (the agreement) with the plaintiffs whereby under cl 1 thereof he agreed to sell and the plaintiffs agreed to buy ***free from encumbrances*** (emphasis mine) the said land for the sum of $2,729,650, completion to be on 17 June 1973. The sale was subject to `The (Revised) Singapore Conditions of Sale` in so far as they were not varied by or inconsistent with the conditions of the agreement. At the time this contract was entered into, although the defendant had paid the full purchase price to the owner the conveyance had not as yet been executed by the owner.

9 Clause 9 of the agreement provides that:

> *All notices affecting the land hereby sold which have not been complied with by the vendor as at the date hereof and all outstanding charges payable in respect of the said land for road making or otherwise shall be complied with and paid by the vendor and the vendor shall indemnify the purchaser in respect thereof Provided Always and It is hereby Agreed that all notices affecting the property and served upon the vendor or otherwise from the date hereof shall be complied with by and at the expense of the purchaser.*

10 Clause 6 of The (Revised) Singapore Conditions of Sale (Condition 6) provides that:

> *The* ***outgoings*** *(emphasis mine) will be discharged by the vendor down to the day fixed for completion, as from which day all outgoings shall be discharged by, and the rents and profits or possession shall belong to, purchaser, (such out-goings, rents and profits, if necessary, being apportioned) but the purchaser shall nevertheless not be let into actual possesion or receipt of*

Version No 1: 11 Sep 2026 (01:05 hrs)

> *rents and profits until completion of the purchase, and the purchaser shall on completion pay to the vendor a due proportion of the current rents less the like proportion of the current outgoings.*

11 Completion of the auction sale and of the sale under the agreement took place on 2 July 1973. A Notice of Transfer under s 17(1) of the Act dated 12 July 1973 was duly sent to the Chief Assessor by the defendant wherein the `Address of Property` and `Description of Property` was given as `Nos 83 and 85 Cavenagh Road, Singapore`, but the column under the heading `Type of buildings on the land, eg Bungalow, Terrace/Shophouse, Flat etc` was left blank; the consideration for the purchase was given at $2,729,650.

12 The Comptroller of Property Tax (Comptroller) served on the plaintiffs a notice under s 17(7)(b) of the Act dated 1 July 1974 together with a notice, also dated 1 July 1974 from the Chief Assessor under s 18(2) of the Act. The relevant parts of s 18 read as follows:

> 18(1) Where it appears that any Valuation List is or has become inaccurate in any material particular, the Chief Assessor may, on the application of any person interested, or otherwise, and in the manner hereinafter provided, amend the Valuation List accordingly.
>
> (2) When in pursuance of sub-s (1) of this section, the Chief Assessor considers it desirable that an amendment should be made to any Valuation List he shall give notice thereof to the owner of the property concerned stating what amendment is considered desirable and the date from which it is proposed the amendment shall take effect.
>
> (3) Any owner who desires to object to such amendment may, within twenty-one days of the service of such notice, give to the Chief Assessor notice of objection in the manner provided in s 12 of this Act.
>
> (4) Any owner dissatisfied with the decision made by the Chief Assessor under this section may, within twenty-one days after such service appeal to the Valuation Review Board in the manner provided in s 26 of this Act.

Version No 1: 11 Sep 2026 (01:05 hrs)

> (5) Notwithstanding that an appeal has been made to the Valuation Review Board pursuant to sub-s (4) of this section, there shall be payable to account of tax in respect of the property a sum calculated at the prescribed rate of tax on the basis of the proposed annual value thereof. Such sum shall be payable and recoverable in the manner in which taxes are payable and recoverable under this Act.
>
> (6) Where notice of proposal to amend has been given by the Chief Assessor pursuant to sub-s (2) of this section -
>
> (a) if no notice of objection is lodged within the prescribed time the Chief Assessor shall cause the Valuation List to be amended to include the property in accordance with the notice of proposed amendment;
>
> (b) if a notice of objection is lodged within the prescribed time the Chief Assessor shall, if no subsequent notice of appeal is lodged, cause the Valuation List to be amended to include the property in accordance with his decision upon the objection;
>
> (c) if a notice of appeal is lodged within the prescribed time, the Chief Assessor shall cause the Valuation List to be amended to include the property in accordance with the decision of the Valuation Review Board.

13 Any amendment made pursuant to para (a), (b) or (c) of this subsection shall be authenticated by the signature of the Chief Assessor and shall be effective from the date contained in the notice of proposal to amend.

14 By his notice the Chief Assessor sought to amend the 1974 Valuation List by increasing the then current annual value of the said land from $2,148 and $4,800 to $136,480 with retrospective effect from 1 January 1974 while the Comptroller by his notice elected as indeed he must under s 17(7)(b) to charge property tax on the said land based on the Chief Assessor`s proposed annual value (not on the revised annual value as required by s 17(7)(b)) of $136,480 for the period 30 May 1971 the date of the demolition of 83 and 85 Cavenagh Road, to 31 December 1973. To arrive at the proposed annual value, the Chief Assessor had treated the said land as vacant land, as indeed it had been since 30 May 1971 and it`s value at $2,729,650 as shown in the said Notice of Transfer.

Version No 1: 11 Sep 2026 (01:05 hrs)

15 By his notice the Comptroller claimed the tax payable, based on the proposed annual value of $136,480 for the period 30 May 1971 to 31 December 1974 to be $176,323.35. The breakdown of the said amount is as follows:

30 May 1971 to 31 December 1971	$ 28,924.95
1 January 1972 to 31 December 1972	$ 49,132.80
1 January 1973 to 31 December 1973	$ 49,132.80
1 January 1974 to 31 December 1974	$ 49,132.80
	$ 176,323.35

16 The purchasers did not desire to object under s 18(3) of the Act to such amendment and paid the tax, as demanded by the Comptroller, in full on 27 November 1974. The Chief Assessor acting under s 18(6)(a) of the Act no doubt amended the 1974 Valuation List to include the said land in accordance with the notice of proposed amendment and authenticated such amendment by his signature, thus making the amended valuation effective as from 1 January 1974 the date contained in the notice of proposal to amend.

17 On 31 October 1974 the plaintiffs, through their solicitors, made demand on the defendant for payment of the sum of $102,624.15, being the amount of the tax payable for the period 30 May 1971 to 2 July 1973 (the date of completion), but the defendant refused to pay the plaintiffs the said sum or any part thereof.

18 The plaintiffs now sue the defendant for breach of the agreement in not conveying the said land free of encumbrances and/or discharged of all outgoings. They put their case in two ways.

Version No 1: 11 Sep 2026 (01:05 hrs)

19 First they say that the amount of property tax claimed against them by the Comptroller in respect of the said land, pursuant to s 17(7)(b) of the Act for the period 30 May 1971 (the date of demolition) to 2 July 1973 (the date of completion), amounting to $102,624.15, is an `outgoing` within the meaning of Condition 6 and that, in breach of such condition, the defendant has not discharged the said outgoing.

20 And alternatively, they say that the said amount of $102,624.15 is an encumbrance on the said land and that, in breach of cl 1 of the agreement, the defendant has not sold and conveyed the said land to them free from encumbrances.

21 The defendant, on the other hand, does not admit that the said sum of $102,624.15 was legally claimable by the Comptroller from the plaintiff pursuant to s 17(7)(b) of the Act. In any event, the defendant denies that the said sum of $102,624.15 was an outgoing of the said property during the period from 30 May 1971 to 2 July 1973 and/or that the said sum is an "outgoing" within the meaning of Condition 6. With regard to the further or alternative contention of the plaintiffs, the defendant denies that the said sum of $102,624.15 was or could have been an encumbrance on the said land at the time it was conveyed to the plaintiffs, namely 2 July 1973.

22 It was not in dispute that, if the plaintiffs could not sustain their contention (i) that the said sum of $102,624.15 was an outgoing of the property during the period 30 May 1971 to 2 July 1973 within the meaning of Condition 6 or (ii) that the said sum of $102,624.15 was an encumbrance on the said land on 2 July 1973 within the meaning of cl 1 of the agreement then their claim against the defendant must fail.

Version No 1: 11 Sep 2026 (01:05 hrs)

23 It is, therefore, for me now to consider (i) whether the said sum of $102,624.15 was an encumbrance or charge on the said land, within the meaning of cl 1 of the agreement, as at the date of the conveyance, namely 2 July 1973 or (ii) whether in the circumstances of the instant case the said sum was an outgoing within the meaning of Condition 6.

24 **Was the said sum of $102,624.15 an encumbrance or charge on the said land on 2 July 1973.**

25 The plaintiffs contend that when Nos 83 and 85 Cavenagh Road were demolished on 30 May 1971 by operation of law a charge on the property arose and subsisted up till the time of conveyance of the said land on 2 July 1973 and beyond it until the said land was included in the 1974 authenticated Valuation List. If the plaintiffs succeed on this submission on the law then, of course, they must succeed in their claim.

26 Property tax is levied and payable under the provisions of the Property Tax Act (Cap 144). Under the Act, unless the context otherwise requires, `tax` means the property tax imposed by the Act, `Valuation List` means the Valuation List prepared under s 9 and authenticated under s 13 of the Act and `property` includes houses, buildings, lands and tenements.

27 Sections 6(1), 6(2) and 6(3) read as follows:

> 6(1) Commencing from the 1 January 1961 a property tax shall, subject to the provisions of this Act, be payable at the rate or rates specified hereinafter for each year upon the annual value of all houses, buildings, lands and tenements whatsoever included in the Valuation List authenticated under s 13 of this Act and amended from time to time in accordance with the provisions of this Act.

Version No 1: 11 Sep 2026 (01:05 hrs)

> (2) The tax shall be payable half-yearly in advance, without demand, by the owner of such property at the offices of the Comptroller or other prescribed place or places in the months of January and July or within such other time in each half year as is prescribed.
>
> (3) The tax shall be a first charge on the property concerned and, if not paid within the prescribed time, shall be recoverable in the manner hereinafter provided.

28 Section 6(1) enacts that property tax is payable for each year upon the annual value of all houses, buildings, lands and tenements included in the Valuation List authenticated under s 13 of the Act and amended from time to time in accordance with the provisions of the Act. Section 6(2) enacts that property tax so raised shall be payable half yearly in advance without demand by the owner of such property. Section 6(3) enacts that the tax so payable shall be a first charge on the property concerned.

29 Sections 9(1) and 9(2) of the Act enact:

> (1) The Chief Assessor shall cause to be prepared a list, which shall be known as the `Valuation List`, of all houses, buildings, lands and tenements:
>
> *Provided that the inclusion in the Valuation List of any house or building which has been erected in contravention of any written law shall not prevent the person who has contravened such law from being liable to the penalty provided under such law, or such unauthorised house or building from being demolished under the provisions of such law.*
>
> (2) The Valuation List shall contain in respect of all houses, buildings, lands and tenements -
>
> (a) a description or designation sufficient for identification;
>
> (b) the name of the owner;
>
> (c) the annual value ascribed thereto; and
>
> (d) such other particulars as the Chief Assessor may from time to time deem necessary.

Version No 1: 11 Sep 2026 (01:05 hrs)

30 I read ss 6(1), 6(2), 6(3) and 9(1), 9(2) to mean that property tax can only be a charge on a property, if that property is included in a Valuation List prepared and authenticated by the Chief Assessor and this too only to the extent of the annual value ascribed to it in the authenticated Valuation List.

31 In the instant case the annual value of the said land was given as $2,148 and $4,800 in the 1974 authenticated Valuation List which came into operation on the 1 January 1974 (s 13(1) of the Act).

32 On the said land there was therefore payable, commencing 1 January 1974 half-yearly in advance without demand property tax at the rate of 36% on $2,148 and $4,800 for the year 1974 and such property tax was a first charge on the said land until it was fully paid, in the second half of the year. The Chief Assessor, who, under s 4(2) of the Act `shall be responsible for the assessment of annual values of properties for the purposes of this Act` using his powers under s 18(2) of the Act served a notice dated 1 July 1974 on the plaintiffs, the then owners, proposing an increased annual value of $136,480 to be effective from 1 January 1974. The plaintiffs did not lodge a notice of objection to the proposed annual value and by virtue of s 18(6)(a) of the Act the annual value of the said land on the amended 1974 Valuation List became $136,480 and property tax, as from 1 January 1974 at the rate of 36%, on $136,480 became a first charge on the said land. It is clear from the Act that the Chief Assessor has no powers to amend any previous Valuation List retrospectively. His powers to amend retrospectively only relate to the current Valuation List and do not go further. However, the Comptroller who under s 4(3) of the Act `shall not amend or otherwise vary any annual value ascribed to any property by the Chief Assessor,` acting under s 17(7)(b) of the Act notified the plaintiffs on 1 July 1974 that property tax based on the proposed annual value of $136,480 will be charged with effect from 30 May 1971.

Version No 1: 11 Sep 2026 (01:05 hrs)

33 The crux of the matter in the instant case is whether, on the date of the conveyance, namely 2 July 1973 the tax levied by the Comptroller on 1 July 1974 under s 17(7)(b) for the period 30 May 1971 to 31 December 1973 was a first charge on or an outgoing of the said land.

34 The point has been raised by counsel for the defendant that the notification of the Comptroller is ultra vires. I do not think that the notice is ultra vires in the sense that the Comptroller has no power to give notice but I do think that in the circumstances of the instant case his notice is premature and therefore of no effect in creating a liability to tax under s 17(7)(b). It seems to me that under the Act, as it stands, only taxes levied by the Chief Assessor become a first charge on the properties concerned, whereas retrospective taxes levied by the Comptroller under s 17(7)(b) are not taxes chargeable on the properties concerned and can only be recovered by actions in personam.

35 If, on the other hand, I am wrong in my view of the law on this, and a tax under s 17(7)(b) of the Act is a chargeable tax under the Act then the question arises was there a charge, and therefore an encumbrance on the said land on the date the said land was conveyed to the plaintiffs (3 July 1973). In my view there was no such encumbrance on the said land on 3 July 1973 as on the facts of the instant case the liability to tax could not have arisen before 1 July 1974 the date of the Comptroller`s purported notice.

36 I therefore reject the submission of counsel for the plaintiffs that the sum of $102,624.15 was an encumbrance or first charge on the said land and that the defendant was in breach of cl 1 of the agreement when he sold and conveyed the said land to the plaintiffs.

Version No 1: 11 Sep 2026 (01:05 hrs)

37 Counsel for the plaintiffs likened the tax liability on the said land under s 17(7)(b) of the Act, for the period 30 May 1971 to 31 December 1973 to that of a floating charge. He contended that the floating charge on the property arose when the two houses, 83 and 85 Cavenagh Road were demolished on 30 May 1971 and continued or subsisted until the end of 1973. He went on to say that when the two notifications of 1 July 1974 one from the Chief Assessor and the other from the Comptroller were sent out simultaneously they operated to quantify the amount due under the floating charge which had arisen immediately on the demolition of the two houses.

38 But I have already held that the liability to an increased tax does not crystallize until the Comptroller has elected under s 17(7)(b) of the Act and that he did not so elect until 1 July 1974 when he purported to send out his notice. Therefore counsel`s contention that the floating charges arose when the two houses were demolished on 30 May 1971 and continued or subsisted until the end of 1973 has no substance and is rejected.

39 **Was the sum of $102,624.15 an outgoing on the said land on 2 July 1973 ?**

40 I have now to deal with the plea that the sum of $102,624.15. Is an outgoing within the meaning of Condition six. Counsel for the plaintiffs contended that, even if the sum of $102,624.15 were not a first charge on the said land, it could still be an outgoing within the meaning of Condition 6.

41 Counsel cited the following cases in support of his contention:

> ***Midgley v Coppock*** *(1879) 4 Ex D 309;* ***Corporation of Sunderland v Alcock***

Version No 1: 11 Sep 2026 (01:05 hrs)

42 (1882) 51 LJ Ch D 546; ***Re Bettesworth and Richer*** (1888) 37 Ch 535; ***Hornsey Local Board v Monarch Investment Building Society*** (1890) 24 QBD 1; ***Stock v Meakin*** [1900] 1 Ch 683.

43 These cases relate to expenses incurred by some local or other authority in consequence of a vendor failing to comply with a notice of such authority to carry out certain works whereupon the said authority carries out and completes the works before the date for completion of the vendor and purchaser contract. Such expenses were there held to be outgoings. Counsel also cited the case of ***Tubbs v Wynne*** [1897] 1 QBD 74 the headnote of which reads,

> *By conditions of sale of land within the metropolis the date fixed for completion was 8 May all outgoings up to that day being cleared by the vendor. Before 8 May a magistrate made an order to take down dangerous structures on the land. This order was not complied with, and after May 8 the county council took down the structures, and demanded and received from the purchaser the expenses of so doing:*
>
> Held, that, the liability having been incurred before 8 May the expenses were `outgoings`, within the meaning of the conditions, which the purchaser was entitled to recover from the vendor.

44 In my view all these cases are of no assistance to the plaintiffs. If anything, they go against him.

45 For there to be an outgoing, either the vendor must have incurred a liability or expense or a local or other authority must have incurred an expense in respect of the property before the date fixed for completion of the sale. In the instant case the sum of $102,624.15 was neither a liability nor an expense which the defendant had incurred in respect of the said land up to the date fixed for completion, namely 17 June 1973. It follows therefore that the sum of $102,624.15 was not an outgoing within the meaning of Condition 6.

Version No 1: 11 Sep 2026 (01:05 hrs)

46 Having found that the sum claimed by the plaintiffs is neither an outgoing of, nor an encumbrance on, the said land, I dismiss the plaintiffs` claim with costs.

47 ***Claim dismissed.***

A P Rajah J

Version No 1: 11 Sep 2026 (01:05 hrs)