

Appeal No. VA88/0/190

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 1988
VALUATION ACT, 1988

Twil Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Lot 76A Twil Ltd. Sir John Rogerson's Quay, County Borough of Dublin

B E F O R E

Hugh J O'Flaherty

S.C. Chairman

Paul Butler

Barrister

Mary Devins

Solicitor

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 20TH DAY OF NOVEMBER, 1988

By notice of appeal dated 18th day of August, 1988, the appellants appealed against the determination of the respondent fixing the rateable valuation of the above mentioned hereditament at £555.

The hereditament in question forms part of a relatively old warehouse building held under a lease for 28 years from 1st February 1970, subject to a current rent of £29,000 per annum. Part of the property i.e. that referred to as 76b on the map attached hereto, is sub-let to Gouldings Fertilisers under a short lease which expired on 30th September, 1988.

In 1987 the property was listed for revision and a rateable valuation of £70 was place on Lot 76B, the position occupied by Gouldings Fertilisers, and a rateable valuation of £555 was placed on the remainder i.e. Lot 76A on the attached map.

In the course of the oral hearing, which took place on 18th November 1988, Mr Stuart Harrington of Messrs Harrington Bannon, Valuers, representing the appellants, pointed out that there was no dispute between the parties as to 'quantum'.

He argued that Lot 76A, the subject premises, comprised, in fact, two separate buildings, viz. area A and area B as shown on the map annexed hereto. He felt, therefore, that the valuation of £555 should be apportioned between the two units as follows, viz: Area A - £420.00 and Area B - £135.00.

It was pointed out by Mr Harrington that a solid concrete wall divided the two buildings, that there was no direct means of access from one building to the other, and that each building had a separate entrance. Mr Harrington agreed that Twil Ltd. were the owners of the entire property known as 76a and 76B Sir John Rogerson Quay, Dublin.

Mr T. Dineen, B.Agr.Sc., a valuer with 14 year's experience in the Valuation Office stated that the buildings should in fact be treated as a single rateable hereditament within the meaning of s. 11 Valuation (Ireland) Act 1852. He pointed out that there was no evidence of separate occupation of each portion of the hereditament. He cited an English case, viz: Barratt Multi-Ownership and Hotels Ltd. v. Central Region Assessor (1987) R.A. 50 and pointed out that the subject hereditament did not meet the criteria as set out and approved therein for separate hereditaments, viz.

- (1) Occupation is not synonymous with legal possession. Rateability depends not on the title to occupy but on the fact of occupation.
- (2) Rateable occupation must include some actual possession, and it must have some degree of permanency.
- (3) Where there is a rival occupancy, the question must be one of fact - namely, whose occupation is paramount and whose occupation is subordinate, and this must be considered in relation to the premises and in regard to the purpose of occupation of these premises.
- (4) The question of control over the premises must be examined in the light of the facts of each case, and the degree of control must be examined in relation to the extent to which its exercise would interfere with the enjoyment by the occupier of the premises for

the purpose for which he occupies them, or would be inconsistent with his enjoyment of them to the substantial exclusion of all other parties.

Mr Harrington pointed out in regard to the case relied on by Mr Dineen, that the English rating legislation was different to the Irish and the reasoning in it should not govern this case. He went on to state that in the event of 3 or 4 units in an industrial complex being owned by one party, it would be impractical, to say the least, to assess them together as single hereditaments.

Mr Dineen stressed that, in his opinion, the Commissioner of Valuation could look only to the strict application of s.11 Valuation (Ireland) Act 1852.

The Tribunal has taken into account the fact that the building is already sub divided into two agreed rateable hereditaments, viz. that occupied by Gouldings Fertilisers and the remainder.

In view of the fact that the two units which form Lot 76A S.J.R. Quay are separate from and independent of each other as regards means of access and that each one is capable of being let as a self-contained unit, it seems clear that each unit should be viewed as a separate rateable hereditament within the meaning of s. 11 Valuation (Ireland) Act, 1852.

Since Mr Dineen has agreed that the method of apportionment suggested by the appellants is fair, the Tribunal has come to the conclusion that an apportionment of R.V. £420.00 for Area A and a R.V. of £135.00 for Area B is in fact correct.