

Appeal No. VA88/0/340

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

**Cork County Council**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Piggery Units Lot No: 11B Mondaniel, E.D. Rathcormac, R.D. Fermoy, Rated Occupier:  
Mr. Alfred Whitford, Co. Cork

**B E F O R E**

**Paul Butler**

**Barrister (Acting Chairman)**

**Mary Devins**

**Solicitor**

**Brian O'Farrell**

**Valuer**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 21ST DAY OF APRIL, 1989**

By notice of appeal dated 23rd August, 1988, the appellant appealed against the respondents decision to grant exemption to the above described hereditament.

**DESCRIPTION OF PREMISES**

The premises are situated in the townland of Mondaniel in the Rural District of Fermoy, County Cork. The area comprises 3½ acres approximately on which there are nine piggery units, storage

sheds and the owner's private dwelling which is currently being reconstructed. The remainder of the land is in grass.

This is an intensive pig production unit which is geared towards breeding. The occupier maintains approximately 200 sows, 800 weaners and 400 bonhams. Weaners are held until they are 70 lbs in weight, and are then sold on for fattening.

All foodstuffs are bought in and nothing, which is used in the pig production, is grown on the land.

There is storage capacity for approximately 60,000 gallons of slurry. This slurry is spread on the land as a fertilizer and any surplus is given to neighbouring farmers and spread over agricultural land.

### **VALUATION HISTORY**

In 1979 the subject property was valued at £45. Following the Supreme Court decision in Quinn and Nixon V the Commissioner of Valuation, the Commissioner reduced the building valuation to £2.50 and struck out the "piggery". The property has been the subject of appeal in the years 1983 to 1987 inclusive but these Circuit Court appeals are still outstanding.

### **WRITTEN SUBMISSIONS**

In an undated written submission the appellants state that the premises are at present described in the Valuation List as House, Offices and Land with a Building Valuation of £2.50 and a Land Valuation of £2.40.

The area of land in the hereditament comprises 3 acres, 1 rood, 24 perches, on which there are nine Piggery Units, Storage Sheds and Mr. Whitford's private dwelling and garden.

The balance of the land is in grass and this is used for summer grazing of bullocks.

The hereditament originally showed a land area of 23 acres

2 roods and 8 perches, but 20 acres and 24 perches were transferred to a Patrick Howard in 1983.

The measurements of the Piggery Units are as follows:

1. 456 SQM
2. 109.75 SQM
3. 96 SQM
4. 96 SQM
5. 228 SQM
6. 396 SQM
7. 78 SQM
10. 60 SQM
11. 26 SQM

The areas are substantiated by O + S Map of 1987.

The buildings are surrounded by paved areas. There is also a mobile home for Mr. Whitford's workman on the site. There is also access from public roadway to the Slurry Tank at rear of Site.

The appellants also outlined the details of the operation as follows:

The operation consists of breeding sows and rearing the bonhams to a weight of 70 lbs, which is reached in approximately 3 months, after which time they are sold on for further rearing.

All the foodstuff is brought in and it is estimated that 80% of Mr. Whitford's turnover goes on foodstuffs. No food is produced for the pigs on the land and it is in the nature of a buffer area between the piggery and the neighbouring lands. There is storage capacity for approx. 60,000 gallons of Slurry and this represents 9 weeks accumulation. This slurry is given free of charge to local farmers for spreading on land. The previous owner, Hybred Pigs Ltd., made a small charge.

The buildings have underfloor heating for the rearing of the litters of about 200 sows.

A detailed written submission dated 27th February, 1989 was submitted by Mr. Kevin Allman on behalf of the respondent, which described the premises, outlined the valuation history and provided extracts of the relevant statutes and judgments. In this submission Mr. Allman stated that it is the contention of the Commissioner that following the decision of the Supreme Court, delivered on the 19th December, 1979, in the Samuel Nixon/George Quinn V Commissioner of Valuation case this piggery is not rateable.

A written submission was also submitted by Mr. Desmond M. Killen F.R.I.C.S., A.R.V.A on behalf of Mr. Whitford, which again outlined the valuation history and a description of the premises.

### **ORAL HEARING**

At the oral hearing which took place on the 10th March, 1989, the appellants were represented by Anthony Kennedy S.C. instructed by Mr. Terence O'Keefe, Executive Solicitor, Cork County Council. Mr. J. Hogan and Miss Phil McSweeney, of Cork County Council were also present. The respondent was represented by Mr. Kevin Allman, Valuer.

Mr. Sean O'Leary, Barrister, instructed by Messrs. Reeves & Sons, Solicitors, 51 Merrion Square, Dublin 2 appeared on behalf of the rated occupier, Mr. Alfred Whitford who was a notice party to the appeal. Also present on behalf of Mr. Whitford was Mr. Desmond Killen of Messrs. Donal O'Buachalla and Co. Ltd., Valuers.

### **SUBMISSIONS**

Mr. Kennedy made reference to S. 14 of the Valuation (Ireland) Act, 1852 extended by S.2 of Local Government (Reduction of the Valuation Act) 1966 and to the Supreme Court decisions in the Samuel Nixon V Commissioner of Valuation and George Quinn V Commissioner of Valuation, 19th December, 1979.

Mr. Kennedy pointed out that in this case the owner, Mr. Whitford has only enough land on which to site the piggery and that no farming activity is carried out by him. In this respect, therefore, he argued, the facts in this case differ from those in the Nixon and Quinn cases where general farming was carried out at the same time as the poultry farming which was the subject of the appeals therein. He argued that pig-rearing of this nature was essentially commercial in nature and was merely industry moved to a rural setting.

Mr. O'Leary pointed out that Mr. Whitford comes from an agricultural background, spent a number of terms in an agricultural college and considers his property at Mondaniel to be a farm, regardless of its size. Apart from the pig-rearing, bullocks are fattened on the land, hay and silage cuts are made and pig slurry is spread on the lands as fertilizer, any surplus being given free of charge to neighbouring farmers. Mr. Whitford is involved in no other business, unlike the appellant in the Nixon and Quinn cases, and is obviously a farmer.

**Law**

Section 14 of the Valuation (Ireland) Act, 1852, provides:-

"No Hereditament or Tenement shall be liable to be rated in respect of any Increase in the Value thereof arising from any Drainage, Reclamation, or Embankment from the Sea or any Lake or River, or any Erection of Farm, Outhouse, or Office Buildings, or any permanent agricultural Improvement as specified under the Provisions of an Act passed in the Session of Parliament held in the Tenth and Eleventh Years of the Reign of Her present Majesty, Chapter Thirty-two, Section Four, made or executed thereon within Seven Years next before the making of such Valuation or Revision."

Section 2 of the Local Government (Reduction of Valuation) Act 1966 amended Section 14 of the Valuation (Ireland) Act, 1852 as follows,

2.- In a case in which -

- (a) Section 14 of the Valuation (Ireland) Act, 1852, falls to be applied consequent upon any such erection of farm, outhouse, or office buildings as is referred to in that section, and
- (b) the work of erection was completed on or after the 1st day of March, 1959,

that section shall have effect subject to the deletion of "within seven years next".

**FINDINGS**

What seems clear in this case is that the pig units increase the value of the entire hereditament.

What falls to be determined is the following, viz:

- (a) Are the pig-units "farm buildings" within the meaning of Section 14 of the Valuation Act 1852 as amended etc.

or

- (b) Does the intensive specialisation of a piggery exclude it from the exemption granted to a general farm and farm buildings.

Mr. Kennedy has argued that the operation is a "self-contained commercial unit" and could be carried on virtually anywhere.

The use of the word "commercial" does not necessarily negate the agricultural element of the operation.

Henchy J. in the Supreme Court decision in the Nixon V Commissioner of Valuation case dealing with poultry houses, stated "inter alia",

"Intensified production of cattle, pigs and fowl in specialised houses of this kind has become a common feature of modern farming".

He also stated with regard to the poultry houses:

"They are situated on the farm and are a related part of its activities".

In this case, the piggery is undoubtedly on agricultural land, regardless of the acreage of the holding. The slurry from the pigs is used as a fertilizer on the rest of the land, bullocks are grazed thereon and hay and silage are cut every year. The Tribunal agrees with Mr. O'Leary when he asserts that "the piggery is surrounded by and supported by agricultural land".

The Tribunal does not have to address itself to the situation where an operation of this nature takes place independently of its surroundings.

It is clear that the piggery units are an integral, (perhaps even an essential) part of the entire farming operation carried on by Mr. Whitford.

The Tribunal therefore affirms the decision of the Respondent.