

Appeal No. VA93/1/042

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

National Bible Society of Ireland

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop, Store and Offices at Map Ref: 41.42, Dawson Street, Mansion House Ward, County Borough of Dublin

Exemption - Charitable purposes

B E F O R E

Paul Butler

S.C. (Acting Chairman)

Mary Devins

Solicitor

Brian O'Farrell

Valuer

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 30TH DAY OF NOVEMBER, 1993

By Notice of Appeal dated the 24th day of February, 1993 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £155 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that:-

"The valuation is excessive in so far as a portion of it should be exempt as the occupier is a charity carrying out charitable works as defined by statute."

Valuation History:

An R.V. of £165 was fixed on these premises until 1971 when it was reduced to £130 on appeal. In 1991 the R.V. was revised and assessed to £190. This was reduced to £155 at First Appeal with no exemption granted to any part of the premises.

Written Submissions:

In an undated written submission received by the Valuation Tribunal on the 24th of September, 1993 it was recited, *inter alia*, that the Bible Society's appeal herein is taken on the basis that the whole or, in the alternative, part of the building occupied by the Society should be distinguished pursuant to Section 2 of the Valuation (Ireland) Act, 1854 as being exclusively used for charitable purposes. It was stated that the property, the subject matter of the appeal, comprises a shop, office and basement of 41, 42 Dawson Street, Dublin 2.

The appellant society is "a charitable" organisation and part of a world-wide movement for the promotion of the bible and draws support from a wide range of Christian Churches including in Ireland the Roman Catholic Church, the Church of Ireland, the Presbyterian Church, the Methodist Church and other smaller denominations.

The submission went on to recite the purpose of the Society as set out in Article 2 of the Constitution of the Society. It was submitted that the Society as it is established as a charitable organisation may only apply its income and property towards the promotion of its main objects and may not distribute same by dividend or otherwise to its members. A copy of the Constitution of this Society was submitted.

It was further submitted that the Society is a Member of the United Bible Societies and its aims are stated in Article IX. The Society's Annual Report for 1991/92 was also submitted, as were Financial Statements for the year to 31 December, 1990.

It was submitted that the Constitution of this Society provides expressly that any profits made by this Society are to be expended for the purposes of this Society and that the Members of this Society are thus excluded from making any private profit from the use of this Society's premises.

The submission went on to refer to the *Barrington Hospitals Case -V-The Commissioner of Valuation (1957 IR)* and the unreported judgment of Henchy J in *Irish Countrywomen's Association -V- The Commissioner of Valuation* (17th February, 1969).

The said submissions and documents therein referred to are annexed to this judgment at Appendix A.

Mr. Edward Hickey, a District Valuer with 21 years experience in the Valuation Office, provided a written submission on behalf of the respondent dated 27th September, 1993.

The said submission set out the relevant dates, the grounds of appeal, the property, the valuation history and the basis of valuation. It did not deal with the point of law arising in this appeal.

The said submission is appended to this judgment as Appendix B.

Oral Hearing:

The oral hearing took place in Dublin on 11th October, 1993. Gavin Ralston Barrister-at-Law, instructed by Messrs. William Fry, Solicitors, appeared on behalf of the appellant and Aindrias O'Caomh Barrister-at-Law, instructed by the Chief State Solicitor, appeared on behalf of the respondent.

Mr. Ralston in opening said that the only issue before the Tribunal was that of exemption. He said that the appellant relied on Section 63 of the 1838 Act and submitted that the premises in question was used for a charitable use and that the same was treated as a charity by the Revenue Commissioners.

Dr. Fergus O'Farrell, Director of the appellant society, said in evidence, that the society is dedicated as a voluntary society to ensure that everybody has scriptures and a bible available to them. He said that the Society was a Member of the United Bible Society, a World-wide Society serving all Christian Churches. Under cross-examination he agreed that the Society had a Christian ethos and agreed that it was engaged in the distribution of scripture and the bible; while the society is not involved in advancing doctrine he accepts that it is involved in advancing Christianity. He said that the Society has not been incorporated and that the downstairs of the premises is the shop area and upstairs is an office area with a staff of about 4 people on average.

Mr. O'Caomh told the Tribunal that he was not calling evidence on behalf of the respondent. He submitted that the case must fail on the basis of the High Court's manner of interpretation of charitable purposes in so far as the same relates to the rating code as opposed to income tax

purposes. He referred the Tribunal to the judgment of Henchy J. in the case of *Brendan -V- The Commissioner of Valuation (1969 IR 202)* and, in particular, to a passage from this judgment appearing at Page 221 which reads as follows:-

"The second ground on which it is alleged that the convent is exempt is that, it is used exclusively for charitable purposes, namely, the advancements of religion. Regardless of whether the facts are such to justify a finding that the convent is used exclusively for the advancement of religion, this ground fails for the reason that it has been held by the Supreme Court in *McGahan and Ryan -V- Commissioner of Valuation* as (interpreted in *Elliott -V- Commissioner* and *Maynooth College -V- Commissioner of Valuation*) that user for the advancement of religion is not a charitable purpose within the meaning of the proviso to Section 63 of the Act of 1838."

Mr. Ralston, in submission, referred to the unreported judgment of Henchy J. in the *Irish Countrywomen's Association* Case (above referred to) and submitted that the restriction is not as tight as that being suggested by the Commissioner. He submitted that the use of the premises was not solely for the purposes of the advancement of religion.

Determination:

The Tribunal is grateful to the parties in the work that they have put in to the presentation of this appeal. It is further satisfied by reason, *inter alia*, of the findings of Henchy J. in the excerpt above quoted, that the appellant wins or fails on the simple question of fact, namely, "are the objects of this Society solely for the advancement of religion?" The Christian Bible and Scriptures have on the evidence before the Tribunal no application outside of religion and the Tribunal finds as a matter of fact that the use of the premises is solely for the advancement of religion. The appeal must, therefore, fail and the decision of the Commissioner is hereby affirmed.