

Status of Judgment: Distributed

Appeal No. VA98/2/057

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

Terra Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Factory and Land at Lot No. 30B, 31A, 31C Rakeevan, Bailieborough, Co. Cavan
Agreement at First Appeal

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

Marie Connellan - Solicitor

Member

Ann Hargaden - FRICS.FSCS

Member

**JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 1ST DAY OF FEBRUARY, 1999**

By notice of appeal dated the 29th day of April, 1998, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £410 on the above described hereditament.

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

1. Premises are available in the same area for less than £2 per square foot.
2. Terra Ltd was set up as a result of a management buy out. The other option was shutdown and job losses.
3. A rates bill of this magnitude places a large financial burden on the group.

A preliminary issue in relation to the appeal proceeded by way of an oral hearing that took place in the Courthouse Cavan on January 15, 1999. The appellant was represented by Mr. McKevitt Managing Director of Terra Ltd., accompanied by Mr. McQuillan, Management Accountant of Terra Ltd. Mr. Ray Sweeney, District Valuer, represented the respondent. The preliminary issue concerned the question of whether an agent for the appellant at first appeal had concluded an agreement and whether, as a consequence, the appellant was estopped from pursuing the appeal further to the Tribunal.

Mr. McQuillan in sworn oral evidence said that Mr. Donnelly was engaged by the accountant in the firm at the time to deal with the First Appeal. He said that no authorisation in writing had ever been given by him as Managing Director to Mr. Donnelly to agree the matter and that it was his knowledge and belief that he did not agree to the reduction at first appeal from £430 to £410. He also said that he had no communication in writing from Mr. Donnelly informing him of the reduction agreed. Mr. Sweeney in his sworn testimony said that he had made an appointment through Mr. Donnelly of Brian Bagnall and Associates to view the subject premises at first appeal. He said that he had met Mr. McKevitt at the subject premises who had arranged for him to be facilitated for his inspection. He had not carried out a joint inspection with Mr. Donnelly. Following his inspection he had discussed the matter with Mr. Donnelly and had agreed the reduction. In support of his evidence Mr. Sweeney produced to the Tribunal copy letters as follows:

- (a) Letter from Mr. Tadhg Donnelly of Brian Bagnall and Associates to Mr. Sweeney dated the 12th February 1998 confirming that his client accepted the reduction and
- (b) Letter from Mr. Tadhg Donnelly of Brian Bagnall and Associates to Mr. Sweeney dated the 21st July 1998 confirming that he was acting on instructions from Terra Limited to agree the reduction on behalf of his clients as confirmed in the letter of 12th February.

Determination

The Tribunal has considered the oral evidence presented to it in relation to this matter in addition to the documentation referred to above.

The Tribunal is satisfied that on the balance of probability that there was an agreement concluded in this matter at the appeal stage between Mr. Sweeney acting for the Valuation

Office and Mr. Donnelly acting on behalf of the appellant. The Tribunal is of the view that this agreement binds not just Mr Sweeney and Mr Donnelly but also their respective principals.

In these circumstances the Tribunal finds that the appellant is estopped from making any appeal before this Tribunal and that this Tribunal has no jurisdiction to deal with the matter. The appeal is therefore dismissed.