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NOEL DEVELOPMENTS LTD. & S.P.F. PROPERTIES INC.

v.

THE CITY OF VANCOUVER

Supreme Court of British Columbia (C933649) Vancouver Registry

Before the HONOURABLE MR. JUSTICE HARDINGE (in chambers)

Vancouver, January 27, 1994

R.D. Gibbens for the Plaintiffs
J.G. Nelson for the Defendant

Reasons for Judgment (Oral)

January 27, 1994

My ruling is that the application must be granted. In my opinion, Section 10 of the *Assessment Act* is a complete answer to the Plaintiff's case against the Defendant. That section provides the completed assessment roll, as confirmed and authenticated by the Court of Revision, etc. is binding on all parties concerned notwithstanding any omission, defect or error, etc. It seems to me that that being the case the City of Vancouver was absolutely bound by the assessment of the Plaintiff's property as prepared and incorporated in the assessment roll furnished by the Assessment Authority. Accordingly, there was obviously no negligence on the part of the City in relying on that assessment to establish the applicable taxes for the relevant years.

I do not think I have to comment on the provisions of section 419 of the *Vancouver Charter*. Whether that raises a defense of limitation or whether it may be otherwise characterized. I think that it is not without significance though that under the section of the Charter relevant to these proceedings, it may be that taxes are deemed to be lawfully and properly levied and imposed except where an action is brought within one year. That would seem to me on the face of it to likewise be a defense but I am not relying on it. I am relying on the defense specifically pleaded and in my view there could be no arguable case raised against that defense.

Therefore, considering the Court of Appeal's decision in *Minnis v. Minnis v. Davies*, and other relevant more recent cases, I grant the application.

Costs follow the event.