

IN THE HIGH COURT OF NEW ZEALAND
(ADMINISTRATIVE DIVISION)
WELLINGTON REGISTRY

M.343/83

1135 .

IN THE MATTER of the Matrimonial
Property Act 1976

AND

IN THE MATTER of the valuation of
the homestead as
defined by the said
Act of the parties at
Methven, Canterbury

BETWEEN

GEDDES
of Methven, Farmer

Appellant

A N D

GEDDES of
Methven, formerly
Married Woman now
Divorced

Respondent

Hearing: 28 August 1984

Counsel: D.H. Hicks for Appellant
J. Cadenhead for Respondent

Judgment: 30 AUG 1984

JUDGMENT OF ROPER J.

This is an appeal pursuant to s.12(2) of the Matrimonial Property Act 1976 against the Valuer-General's determination of the capital value of the land upon which a homestead is situated. It appears that this may be the first such appeal as Counsel could find no authority on the matter.

The parties requested the Valuer-General to value the homestead, which is at Highbank in mid-Canterbury, and the task

was carried out by Mr Donaldson, the District Valuer at Timaru, who arrived at a capital value of \$67,600. A question then arose as to whether a double garage on the property had been included in the valuation it being common ground that it should have been. A revised valuation was requested of the District Valuer which resulted in an increase in the valuation to account for the garage from \$67,600 to \$75,500.

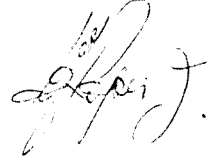
The Appellant's solicitors then obtained a valuation from Mr C.M. McLeod, a registered valuer of Ashburton, and his figure was \$65,500 including the garage.

I heard evidence from Mr Donaldson who explained that his valuation of the land was based on the average price of surveyed sections in the nearby township of Methven with deductions to provide for the circumstances that no liability for survey costs or reserve contribution had been incurred. As a comparable sales method of valuation was not applicable he valued the improvements at cost less depreciation plus the added value they gave to the site.

I did not hear from Mr McLeod but I was informed from the bar that he had carried out his valuation on the same bases as Mr Donaldson. I am therefore left with an unexplained and inexplicable difference in values of \$10,000. That is not an unusual situation for the Court to be faced with where the value of a matrimonial home is in issue, and is generally met by a process of "judicial compromise". However, I do not regard that approach as appropriate in an appeal pursuant to s.12(2). By that subsection the Valuer-General is charged with the duty of making the valuation and it must follow that on an appeal it is for the Appellant to prove that his determination was wrong. There is no suggestion in the present case that Mr Donaldson applied wrong principles, or disregarded matters that should have been taken into account, or gave undue weight to others. It follows that the appeal must fail.

3.

The application is dismissed with costs reserved.

A handwritten signature in cursive script, appearing to read "W. J. Hill".

Solicitors:

Rhodes & Co., Christchurch, for Appellant

Hill Lee & Scott, Christchurch, for Respondent