

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20190124**

**Dockets: A-47-18  
A-48-18**

**Citation: 2019 FCA 14**

[ENGLISH TRANSLATION]

**CORAM: GAUTHIER J.A.  
BOIVIN J.A.  
GLEASON J.A.**

**Docket: A-47-18**

**BETWEEN:**

**YANN CYR**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

**Docket: A-48-18**

**AND BETWEEN:**

**PASCAL CYR**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

Heard at Quebec City, Quebec, on January 24, 2019.

Judgment delivered from the bench at Quebec City, Quebec, on January 24, 2019.

REASONS FOR JUDGMENT OF THE  
COURT BY:

BOIVIN J.A.

**Federal Court of Appeal**



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**REASONS FOR JUDGMENT OF THE COURT**  
**(Delivered from the bench at Quebec City, Quebec, on January 24, 2019.)**

**BOIVIN J.A.**

[1] The appellants are appealing the judgment of Justice Tardif of the Tax Court of Canada (the TCC judge) dated January 5, 2018 (2018 TCC 4). The TCC judge dismissed the appeal from the reassessments made under the *Income Tax Act* (R.S.C., 1985, c. 1 (5th Supp.)) (the ITA) for the appellants' 2010, 2011, 2012 and 2013 taxation years. In addition, the TCC judge upheld the penalties imposed on the appellants under subsection 163(2) of the ITA.

[2] An order consolidating the two appeals was issued by this Court on May 4, 2018, with the file of Yann Cyr (A-47-18) being designated as the lead file. In accordance with that order, these reasons dispose of both appeals. To that end, the original will be filed in the lead file and a copy thereof will be placed in the file of Pascal Cyr (A-48-18) to serve as reasons in that case.

[3] There is no dispute in this case that the applicable standard for questions of law is correctness and that the applicable standard for questions of mixed fact and law is palpable and overriding error: *Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235. With respect to procedural fairness and natural justice, if there is a violation, the Court must intervene (*Canadian Pacific Railway Company v. Canada (Attorney General)*, 2018 FCA 69).

[4] After reviewing the record and hearing the appellants' representations, the Court is of the opinion that the appeal must be dismissed.

[5] The appellants made a number of arguments in support of their appeal. We find no basis for the argument that the TCC judge breached the rules of procedural fairness and the principles of natural justice. Contrary to the appellants' claims, neither the transcript of the hearing nor the digital recording of the relevant portions identified by the appellants reveals any bias on the part of the TCC judge or shows that he acted with hostility or intolerance towards the appellants. In addition, during the trial, the TCC judge explained the rules of the Court and the rules of evidence to the appellants' representative. He also made sure that the appellants were able to present their evidence and their arguments by, among other things, extending the hearing to the following day to enable the appellants' representative to complete a cross-examination. The appellants did not convince us that the TCC judge failed to meet his obligations. In fact, a reasonable, right-minded person properly informed on the matter would not be able to conclude that the TCC judge failed to act impartially and fairly (*Committee for Justice and Liberty v. National Energy Board*, [1978] 1 S.C.R. 369, p. 394).

[6] With respect to the assessment of the evidence, the appellants submit that all of the evidence they filed met their *prima facie* burden. We all agree that the TCC judge, as the trial judge, was in the best position to assess the testimony and documentary evidence and that he was entitled to make the finding he did. We also do not find any palpable and overriding error in the identification and application of the burdens of proof that the parties had to meet.

[7] In fact, the appellants are asking us to reassess the evidence in a new light in order to come to a conclusion that is favourable to them, which is not the role of this Court.

[8] Therefore, the appeal will be dismissed with costs.

“Richard Boivin”

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J.A.

Certified true translation  
Janine Anderson, Revisor

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKETS:** A-47-18 AND A-48-18

**DOCKET:** A-47-18

**STYLE OF CAUSE:** YANN CYR v. HER MAJESTY  
THE QUEEN

**AND DOCKET:** A-48-18

**STYLE OF CAUSE:** PASCAL CYR v. HER MAJESTY  
THE QUEEN

**PLACE OF HEARING:** QUEBEC CITY, QUEBEC

**DATE OF HEARING:** JANUARY 24, 2019

**REASONS FOR JUDGMENT OF THE COURT BY:** GAUTHIER J.A.  
BOIVIN J.A.  
GLEASON J.A.

**DELIVERED FROM THE BENCH BY:** BOIVIN J.A.

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