

Decision No: [2011] NZREADT 20

Reference No: READT 077/11

IN THE MATTER OF of a charge laid under s.91 of the Real Estate Agents Act 2008

BETWEEN **COMPLAINTS ASSESSMENT COMMITTEE (CAC 10063)**

Applicant

AND **RAJNEEL RAJ**
Licensed Salesperson

Defendant

BEFORE THE REAL ESTATE AGENTS DISCIPLINARY TRIBUNAL

Ms K Davenport - Chairperson
Mr G Denley - Member
Mr J Gaukrodger - Member

Hearing: On the papers

**DECISION AS TO INTERIM SUSPENSION
PURSUANT TO S 115 REAL ESTATE AGENTS ACT**

[1] On the 9th August 2011 the Complaints Assessment Committee 10063 ("CAC") laid a charge against Mr Raj alleging disgraceful conduct in respect of issues arising out of an agreement for sale and purchase of properties at 13 Piper Place, Manukau and 14 Andover Way, Manukau.

[2] The gist of the complaints on Piper Place are that Mr Raj falsely represented the purchase price of the properties when drawing up an agreement for sale and purchase for the purposes of deceiving the Bank of New Zealand into providing 100% finance.

[3] In respect of the Andover Way property a similar allegation is made in respect of the documentation of the purchase price. There are allegations also of an undisclosed financial benefit on the sale of the property. The charges also allege he forged signatures on both the agreements. These are very serious allegations. The details of the schemes apparently being run by Mr Raj and others are set out in full in the affidavit of Mr Gouverneur referred to below.

[4] The CAC applies for an interim suspension of licence number 10000444 Rajneel Raj licensed salesperson pending the outcome of the hearing of the charges.

[5] The grounds on which they make this application under s 115 of the Act are:

- [a] That it is necessary or desirable to do so having regard to the interests of the public including protection to the public in light of the serious nature of the charges, namely:
 - [i] Making false documents for the purpose of deceiving the Bank of New Zealand to providing 100% mortgage finance;
 - [ii] Forgery;
 - [iii] Failure to disclose financial benefits derived from transactions in which the defendant acted as agent.

[6] An affidavit is filed by Mr Ross Gouverneur in support of the application. Mr Gouverneur is an investigator with the Real Estate Agents Authority. He sets out in his affidavit serious allegations against Mr Raj relating to a scheme operated by Mr Raj who worked as an agent for Kiwi Best Realty trading as ReMax Best in West Auckland. He says in summary:

- [a] That the agent facilitated a sale to a “dummy” second person, in this case related to Mr Raj, and then immediately on-sold the property for a higher price with both contracts settling on the same day. Mr Raj made a profit (undisclosed) on the resale;
- [b] That the agreements for sale and purchase showed a purchase price higher than the actual purchase price for the purposes of obtaining 100% mortgage and thus deceiving the Bank of New Zealand into lending 100% of the actual purchase price; and
- [c] Mr Raj forged the signature of his friend Adlin Singh on agreements for sale and purchase.

[7] There are further allegations set out in Mr Gouverneur’s affidavit including the table at exhibit B which sets out a factual summary in respect of all the properties to have been involved in the scheme. Only two of these are contained in the charge.

[8] Also of interest to this application under s 115 is the interview by the investigator with Mr Raj in which he admits the wrongdoing set out above.

[9] The Tribunal has powers under s 115 of the Real Estate Agents Act to consider the question of interim suspension. The grounds on which it can consider the application are:

- [a] If the licensee has been charged under s 91; and
- [b] The Tribunal considers it is necessary or desirable to suspend the licence having regard to the interests of the public.

[10] The Tribunal have considered the material put before it by the CAC. They are satisfied that the licensee has been charged under s 91. Having read the detailed affidavit of Mr Gouverneur and particularly the transcript of Mr Raj’s evidence and a

summary of his evidence, the Tribunal consider it is necessary and desirable to suspend Mr Raj's license pending the resolution of the charges brought against him.

[11] The grounds on which the Tribunal reaches this conclusion are that the affidavit of Mr Gouverneur discloses serious wrong doing such that there is a serious risk to the public if Mr Raj were able to continue to practise as an agent pending the outcome of the charge.

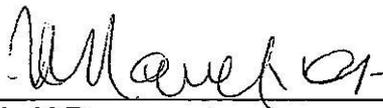
[12] The process once the Tribunal considers it is desirable to consider suspension under s 115, is to give the licensee notice of its intention to suspend his licence. This notice must contain the Tribunal's reason for the intended suspension and must state that the licensee has 10 working days in which to make written representations to the Tribunal as to why the licence should not be suspended and state the proposed period or otherwise of the proposed duration of the suspension.

[13] This decision therefore operates as **notice under s 115(2)**. The Tribunal hereby gives to Mr Raj written notice of its intention to suspend his licence. The reasons for the intended suspension are set out at paragraph 10 above.

[14] Mr Raj has **10 working days** from the service of this order upon him within which to make written representations to the Tribunal as to why his licence should not be suspended.

[15] The proposed period of the suspension is for a period of six months or until the hearing of the charge under s 91, whichever date is the earlier.

DATED at Auckland this 10th day of August 2011



Ms K Davenport
Chairperson



J Gaukrodger
Member

G Denley
Member