

Decision No: [2012] NZREADT 62A

Reference No: READT 014/12

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

**BETWEEN** **REAL ESTATE AGENTS  
AUTHORITY (CAC 10063)**

Prosecutor

**AND** **SANT RAJ**

Defendant

**BEFORE THE REAL ESTATE AGENTS DISCIPLINARY TRIBUNAL**

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

**APPEARANCES**

No appearance for the defendant  
Mr L Clancy for the Real Estate Agents Authority (CAC 10063)

**ORAL DECISION OF THE TRIBUNAL**

[1] Mr Sant Raj faces a charge arising out of his son's involvement in a number of unethical on-selling agreements for sale and purchase. Mr Sant Raj himself is charged that his conduct would be regarded by agents of good standing or reasonable members of the public as disgraceful and the particulars are that without reasonable excuse he gave false and/or misleading particulars to Ross Gouverneur, a senior investigator on the Real Estate Agents Authority investigating alleged misconduct by licensed salesperson Rajneel Raj knowing those particulars to be false or misleading in a material respect:

- (i) Statements contained in a witness statement dated 13 July 2011;
- (ii) Statements contained in an e-mail to investigator dated 9 August 2011; and
- (iii) Statements to investigator on 10 August 2011.

***Background***

[2] The background to this arises out of charges faced by Rajneel Raj the son of Mr Sant Raj. Mr Rajneel Raj was charged in respect of three agreements for sale and purchase in which the property for sale was purchased by Mr Rajneel Raj's mother and on-sold again making a significant profit. The three properties were at 60 Hain Avenue, Mangere, 32 Mataroa Road, Mount Wellington and 3/51 Henderson Valley Road,

Henderson. These transactions were also facilitated by fraudulent applications for finance, all of which were prepared by Mr Rajneel Raj. Rajneel Raj has been found guilty by another differently constituted Tribunal on 3 July 2012 and the penalty decision is awaited.

[3] The decisions for this Tribunal are whether the statements given by Mr Sant Raj are in fact incorrect on the balance of probabilities and what disciplinary consequences flow from that. A little more information is needed about the charge. A witness statement was given by Mr Sant Raj to the investigator of the Real Estate Agents Authority on 13 July 2011. In that statement he declared that he knew nothing about the transactions and had received no benefit from them. His statement is contained on page 7 and 8 of the hearing bundle and his statement is to the effect that he has no information about the properties in question and he does not know anything about the sale of the property at Mataroa Road, Mount Wellington which shows Urmila Devi as vendor. He also says he did not know the purchaser, he did not know anything about a property at 3/51 Henderson Valley Road, he did not recognise the handwriting on the agreements for sale and purchase and did not know anything about his wife's involvement nor was he aware of his wife receiving any funds for the sale of the property at Mataroa Road, Mount Wellington or 3/51 Henderson Valley Road and he had not noticed any funds in his bank account. He also said he had no knowledge of his son's involvement with either of these properties.

[4] He subsequently sent an e-mail to the investigator on 9 August 2011 and that is contained as exhibit RG6 to the affidavit of Mr Gouverneur and that is to be found at the hearing bundle on page 78. In that e-mail he said *"I deny seeing the transactions coming through our account, leave a long disbursement (sic) in any instance I won't agree on releasing copies of my statements. My involvement in this case has been nil however on cooperative grounds I'm willing to accompany you to the bank to verify the transactions if there are any. Urmila Devi is out of the country and I have no idea when she'll be in. I see no possibility of making her meet you"*. An oral statement was made to Mr Gouverneur on 10 August 2011 when Mr Gouverneur met with Mr Raj at Re-Max in Henderson, providing him with settlement dates for the property and Mr Gouverneur told him that the profits from the on-sale transactions would have been paid into an account nominated by his wife by the conveyancers involved. Mr Raj denied any knowledge of his wife being involved and said that no large deposit had been banked into his account at Westpac.

[5] He subsequently agreed to provide copies of his Westpac accounts which are contained in the bundle of documents at page 80 and this in fact shows two large deposits – one of \$105,939 on 23 June 2010 and one on 25 June 2010 of \$52,433. The investigator was also able to discover copies of the withdrawal of these monies and the fact that Mr Raj's driver's licence was used as identification for the withdrawal of cash that took place from these accounts. The best evidence that the REAA has is that \$31,000 in cash which was withdrawn from this account was received by Mr Sant Raj. The bank cheque of \$52,439 was made payable to his son and \$22,500 was a bank cheque made payable to K K Challa. There is not sufficient evidence held by the REAA as to the complete whereabouts of all of the monies which were paid out after these transactions.

[6] The REAA has called evidence from a document examiner Linda Winifred Katherine Morrell and she was asked to look at a photocopy of the BNZ withdrawal slip showing a withdrawal on 25 June for the amount of \$105,939 and was asked whether or not the signature on the withdrawal had been completed by Sant Raj or not. Her conclusion was equivocal but she said that she felt that it was either the genuine signature of Sant Raj or an attempted copy or simulation of the genuine signature of Sant Raj. She said that in her opinion the signature is done in a fairly fast and fluid movement, appears in a similar pen path as the actual acknowledged signatures of Sant Raj and that it is her opinion that the evidence points towards a signature as probably being completed by Sant Raj.

[7] Mr Raj himself has not chosen to appear but the Tribunal do have some information from him contained in his response to the charge which was filed by him on 4 April 2012. He neither denied nor admitted the charges and says that he denies having given any stated to Ross Gouverneur, a senior investigator of the REAA and he says:

*“By virtue of letter dated 6/12/2011 to REAA I advised REAA that under the circumstances stated therein I cease to be the licensed salesperson member of REAA. Having regard to this fact REAA is not obliged to lay charges on me.*

*Furthermore there is no READT number decision of CAC dated 20 March 2012 and the right of appeal provide 20 working days after the date of notice whereas the letter from REAA dated 20 March 2012 under response to charge allows 10 working days from receiving the letter. These are matters of concern which need addressing, why both letters carry the same date of contradictions. I am no longer licensed salesperson I request the charge be withdrawn.”*

[8] It is always unfortunate when the Tribunal cannot see and hear from the defendant themselves, especially on such serious charges.

[9] The Tribunal reminds itself that the Real Estate Agents Authority for the Complaints Assessment Committee has the obligation to prove the charge on the civil standard of proof, that is the balance of probabilities, with the Supreme Court in *Z* having said that there is no longer any sliding scale of proof but more serious allegations need more definitive proof. We are there cognisant of the need to remind ourselves that we need to be truly satisfied (if there can be such a qualification) on the civil standard of proof before we find Mr Raj guilty of the charges. However having considered all the evidence put before us by the REAA we are satisfied that the charge has been made out and that the conduct complained of would amount to disgraceful conduct. Accordingly we find the charge established under s 73A of the Real Estate Agents Act 2008.

[10] We adjourn the issue of penalty to be considered either following or shortly after the penalty decision to be considered against Mr Raj's son Rajneel Raj. The Tribunal

will confirm either in writing or by organising a telephone conference when this will be and the submissions which should be filed by the Authority and Mr Raj in preparation for this.

[11] The Tribunal draw the parties' attention to s 116 of the Real Estate Agents Act 2008.

**DATED** at AUCKLAND this 31st day of July 2012

---

Ms K Davenport  
Chairperson

---

Mr G Denley  
Member

---

Ms J Robson  
Member