




THE HIGH COURT AFFIRMED THE STAMP DUTY ASSESSMENT BASED ON THE MARKET VALUE DETERMINED BY JPPH

KEM v. COLLECTOR OF STAMP DUTIES

 Johor Bahru High Court

 October 31, 2019

 Special Appeal Division,
Legal Department, IRBM

JUDGE

YA Evrol Mariette Peters

BACKGROUND

The stamp duty appeal by KEM ("Plaintiff") was made pursuant to Section 39 of the Stamp Act 1949 read together with Order 55A Rules of Court 2012 against the Notice of Assessment of Transfer of Property (Ad valorem Duty) dated 4.2.2018 raised by the Collector of Stamp Duties ("Defendant") with regards to the transfer of two properties as follows:

- i. A low cost/medium low cost lot with chargeable duties amounting to RM 56,670.00; and
- ii. Apartment lot with chargeable duties amounting to RM 413,100.00

REVENUE COUNSELS

Muazmir Mohd Yusof
Nik Nur Halina Mohd Kashfi
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The ad valorem duties were calculated based on the market value determined by JPPH at RM2,089,000.00 for the low cost/medium low cost lot and RM13,970,000.00 for the Apartment lot.

Plaintiff had objected to the market value determined by JPPH and submitted a Valuation Report by a private valuer in which the private valuer had assessed the low cost/medium low cost lot at market value of RM1,100,000.00 and the Apartment lot at market value of RM6,735,000.00.

PLAINTIFF'S CONTENTION

1. The characteristics/ circumstances that should be taken into account when valuing both properties are both lots are designated for apartment of low cost/medium low cost flat whereby the selling price are fixed by the State, that there is a rubbish dumping site and water treatment plant close to both lots and that the surroundings of both lots are oil palm plantations and other residential low costs types.
2. Plaintiff agreed with the comparables relied on by JPPH. Plaintiff contended that JPPH's method of making adjustment based on Nilaiian JPPH for comparables used and not the consideration/ purchase price of the respective comparables are wrong in principle. The adjustment

made in coming to the market value of the low cost/medium low cost lot should be calculated at RM10.92 per square metre which is the consideration/ purchase price of Comparable 1 to the low cost and medium low cost lot and RM553.02/RM497.51 per square metre for the Apartment lot which are the consideration/ purchase price of Comparable 1 and 2 to the Apartment lot.

DEFENDANT'S CONTENTION

1. Comparables used by JPPH for the low cost/medium low cost lot and the Apartment lot are more suitable and reliable. Defendant's Witness had given explanations on the Necessary upward (+) / downward (-) adjustment made to the differing factors before coming to the fair value per square metre in determining the market value of both properties.
 2. Method of valuation by the private valuer in coming to the market value of the low cost and medium low cost lot did not conform to the comparison approach and Malaysia Valuation Standard ("MVS"). There were no comparables used at all.
 3. Comparables used by private valuer for the Apartment lot are not suitable and the fair value per square feet based on the comparables are not reliable. The comparable lots used are actually meant for agricultural purposes which is lower in value than a residential property.
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COURT'S DECISION

High Court is satisfied with the report and explanation made by JPPH and agreed that the Collector is right in raising the assessments based on the market value determined by JPPH. High Court dismissed the appeal with cost.