

LAND AND RESOURCES TRIBUNAL QUEENSLAND

CITATION: *Re Citigold Corporation Limited & Prichard* [2007] QLRT 101

PARTIES: **In the matter of Mining Lease 1433 – Application by Citigold Corporation Limited for determination of compensation payable to James Francis Prichard.**

FILE NO: MLC32/07

PROCEEDING: Application for determination of compensation

DELIVERED ON: 8 August 2007

DELIVERED AT: Brisbane

HEARING DATE: Heard on the papers

MEMBER: Windridge MR

ORDER/S: **1. I determine compensation under s. 281 in the sum of \$50.00. (at [13])**
2. I direct that the miner pay the total compensation in the sum of \$50.00 to the current landowner within 2 months of notification of renewal of the mining lease by the Mining Registrar. (at [14])

CATCHWORDS: MINING LEASE RENEWAL – DETERMINATION OF COMPENSATION

Mineral Resources Act 1989, ss. 279, 281

Smith v Cameron (1986) 11 QLCR 64
Shaw v Heritage Holdings Pty Ltd (1992) 14 QLCR 139
Mitchell v Oakhill and Mitchell (10.03.98) unreported

COUNSEL: N/A

SOLICITORS: N/A

Background

- [1] The applicant Citigold Corporation Limited (the miner) seeks the renewal of Mining Lease 1433 in the Charters Towers Mining District. The lease was initially granted for a period of 21 years from 1 November 1985. The application for a further

renewal for a term of 21 years was lodged at the office of the Mining Registrar Charters Towers on 18 September 2006. The renewed term is to commence on and from 1 November 2006.

- [2] The lease is located over a number of lots more particularly described in the public tenure report. The lease is over an area of 26.56ha with 14.32 ha of that being required for surface area and is granted for the purpose of mining principally for gold.

The Act

- [3] Section 279 of the *Mineral Resources Act 1989* (“the Act”) provides that a mining lease shall not be granted or renewed unless an agreement in relation to compensation has been filed at the office of the Mining Registrar, or in the absence of such an agreement, a determination of compensation has been made by the Tribunal. In this instance, no agreement has been lodged with the Mining Registrar and the matter has been referred to the Tribunal for determination.
- [4] The matters which must be considered by the Tribunal are set forth in s. 281(3) of the Act. Although s. 281 sets out the matters to be considered, it does not define any method of assessment. Whilst the Tribunal is only bound by its own legislation, the following past appeal cases offer some guidance as to the methodology that might be used in arriving at a determination of compensation. In *Smith v Cameron* (1986) 11 QLCR 64, the Land Court held at p.74...

“The section in my opinion merely identifies matters which shall be taken into consideration in making the assessment. It does not prescribe a method of valuation. No doubt each case will depend on its own facts and circumstances but it seems to me that either method is open to the valuer.”

- [5] In *Shaw v Heritage Holdings Pty Ltd* (1992) 14 QLCR 139, the Land Court at p.146 said:

“the method of assessment remains a matter which will be governed by the facts and circumstances of each case in which event emphasis may shift from one method to another.”

- [6] In considering *Mitchell v Oakhill and Mitchell* (10 March 1998) unreported, the President of the Land Court, referring to s. 281(3) of the Act, found

“The latter section does not prescribe a method of assessment. In my view, as long as the amount of compensation finally determined sufficiently accounts for each of the matters referred to in the sub-section, it is not necessary to quantify an amount in respect of each of the matters referred to.”

The evidence

- [7] Neither party sought to appear before the Tribunal and this matter has been dealt with on the papers. Neither party filed statements or other supporting material. Some documentation in relation to factual matters was provided by the Mining Registrar. Where necessary, I have referred to these documents for the purpose of accuracy. It appears that part of the lease which is over surface area owned by Mr Prichard is 0.601 hectares. This is used by the applicant miner for road access to the

underground workings. I round off the area to one hectare for the purpose of this determination.

- [8] There was no formal valuation evidence to consider, and therefore the Tribunal does not have that assistance in arriving at a determination. Due to the small area involved, the cost of a valuation would far outweigh any award for compensation.
- [9] Prior determinations and agreements for leases and claims in the Charters Towers area range from about \$1.00 per ha per year to \$15.00 per ha per year. However, neither the miner nor the landowner has made any relevant submissions in accordance with practice directions or s. 281 of the Act.
- [10] In summary, there was no evidence called to support any claim under any other head of compensation, nor was any matter raised which would necessitate consideration under paragraphs (a), (c), (d), or (e) of subsection (4) of s. 281 of the Act. It is not the function of the Tribunal to conduct a hunt for evidence on behalf of either party.

Quantum

- [11] There is no evidence on which the Tribunal can make any assessment under the provisions of s. 281 of the Act. There is a lack of detail from both the miner and the landowner, particularly that part of the lease that is within the land held by the landowners, and therefore the only way to dispose of the matter is to make a nominal order.
- [12] This lease was taken out for gold mining and associated purposes and the renewal is sought to continue those activities.
- [13] Having regard to all the circumstances, I consider that the following award will satisfy the requirements of s. 281 for the term of the renewed lease for the limited purposes authorised by the renewal of the lease. Drawing on the limited evidence that is available, I determine compensation under Part 7 of the Act, to satisfy all heads of compensation set forth in subsection (3) of s. 281 of the act shall be the sum of \$2.00 per hectare per annum for the term of the renewal. This award basically is in respect of access only. The award for the term of renewal is \$42.00. I further award the sum of \$4.20 under s. 281(4) (e) to reflect the compulsory nature of the action taken under this part, making a total award of \$46.20. I round off the award of compensation to \$50.00.

Terms of payment

- [14] In relation to the terms, conditions and times when payments should be made, I take into account the quantum of the order, the size of the lease and the period of renewal. In these circumstances, I order that the miner pay total compensation to the current landowners in the sum of \$50.00 within a period of 2 months from notification of renewal of the mining lease by the Mining Registrar.