

**NORTHERN IRELAND VALUATION TRIBUNAL**  
**THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE**  
**VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007 (AS**  
**AMENDED)**

**CASE REFERENCE NUMBER: NIVT 13/23E**

**RONAN DONNELLY - APPELLANT**

**AND**

**COMMISSIONER OF VALUATION FOR NORTHERN IRELAND -  
RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Chairman: Michael Flanigan**

**Members: Max Steele and Noreen Wright**

**Date of hearing: 30<sup>th</sup> October 2024**

**Subject: 18b Aghindarragh Road, Augher, Co Tyrone**

1. The subject property (“the property”) in this appeal is situate at 18b Aghindarragh Road, Augher, Co Tyrone. The property is owned by the Appellant.
2. The statutory provisions are set out in the Rates (Northern Ireland) Order 1977 (“the 1977 Order”) as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”)

**Background.**

3. The Respondent served a Completion Notice on 5<sup>th</sup> September 2023 under Article 25(b) Schedule 8 of 1977 Order.

The above Provision provides as follows:

“Where a completion notice is served under Schedule 8 and the building to which the notice relates is not completed on or before the relevant day, then for the purposes of the Order the building shall be deemed to be completed on that day.”

The Respondent by the Completion Notice deemed that the building would reasonably be completed on 4<sup>th</sup> December 2023.

The Appellant appealed that Notice and the Commissioner's Decision on Appeal dated 7<sup>th</sup> December 2023 determined that the Completion Notice was valid.

The Appellant has appealed that decision to the Tribunal by Notice of Appeal dated 13<sup>th</sup> December 2023.

#### **4. The Hearing.**

The Tribunal had before it the grounds for appeal set out in the appellant's notice and heard from both the appellant's parents and Councillor McConnell who made representations on their behalf. The Tribunal is grateful to everyone for their evidence and their submissions.

The appellant had commenced works on the property in April 2021 on what he intends to be a home for him and his wife. Shortly after the works had commenced the couple moved to Australia to take up work in the mining industry. The couple are working in what is no doubt a challenging environment with the intention to earn enough money to build their new home unencumbered by other borrowings. The build is largely supervised by Mr Donnelly senior who organises contractors in the area as both the monies from Australia and contractors become available.

The Respondent had initially been unable to gain access to the property and its progress was assessed on the basis of a drive by viewing. The Appellant was working in a remote part of Australia with limited access to email. This together with a large time difference meant that he was unable to respond to the requests for access. As a result of an external visual inspection in August 2023 the Respondent determined that the premises were "Completion Notice ready".

The evidence of the Respondent was that once a property had its walls built, was roofed, and had windows and external doors fitted, it was assessed to be weathertight and could be completed within three months. The Respondent relied upon case law which states that an appellant's personal circumstances, economic, and otherwise should be set aside. It is the Respondent's case, based upon a typical programme of works for a self-build (Appendix 2), and the schedule of works in the case of Dickson (Appendix 1,) that three months was a reasonable period in which to complete the property.

The Appellant on his Appeal Form listed the range of works that still had to be completed and advised that the premises were not near completion.

## **5. The Decision.**

The right of Appeal against a Completion Notice is contained in Schedule 8B Article (4) of the 1977 Order and reads as follows:—"A person on whom a completion notice is served may, not later than 28 days from the date of service on him of the notice, appeal to the Commissioner against the notice on the ground that the building to which the notice relates has not been or as the case may be, cannot reasonably be expected to be completed by the day stated in the notice."

The legislation states that a Completion Notice can be served "if it appears to the Department that the work remaining to be done on a new building is such that the building can be reasonably be expected to be completed within three months". The Appellant's appeal is by law therefore confined to one point only, which is, whether the three months provided for completion by the Notice to Complete was reasonable.

The assessment of the Respondent that the property was wind and watertight, i.e. that the walls, roof, windows, and external doors were all fitted, was based upon a drive by examination in August 2023. While this was not an ideal way in which to assess the property, the Tribunal notes that the appellant did not suggest that those works were not in fact finished as noted by the Respondent.

The law in this area was examined in the case of Neil Moffett v COV (NIVT 15/12). This decision, which was followed by several others, and was relied upon by the Respondents, established that the personal circumstances of an appellant should not be taken into account when determining whether a building can be completed within three months. In effect the circumstances of the appellant, be they economic or personal, have to be set aside.

In this case the Appellant's circumstances are that he is building a home to return to from Australia. The Appellant, together with his wife, aims to come back to a finished house which is mortgage free. At any given point the particular contractors which the appellant wishes to use may not be available and there appears to be no pressure for the works to be completed for any particular date. For example, the screed floor was not put down until June/July of 2024, almost a year after the property became wind and water tight. The decision of the appellant to build the house in this manner is understandable but is just as much a personal circumstance as there being a shortage of labourers or materials.

The test to be applied is not whether the appellant is capable of completing the building within three months but rather whether a competent builder with reasonable access to finance, labour and materials is capable of completing the property within three months. (Patton V COV 2018).

The Respondent provided both an example of a typical self-build programme of works (Appendix 2) and a specific programme of works in the case of Robert Dickson V COV (2015) (Appendix 1,) which demonstrated that three months was a reasonable period in which to bring a house to completion.

The Tribunal notes that the programme of works in the case of Dickson dates from 2015 and what could reasonably be expected to be done in three months in 2015 may no longer be the case today. There was no expert or independent evidence before the Tribunal to assist on this point.

Having regard to the case law the Tribunal is required to set aside the personal and economic circumstances of the Appellant. Once personal circumstances are set aside the only remaining issue is whether the three-month period provided by the Completion Notice is a reasonable one. The evidence before the Tribunal was that the property was roofed in and weather tight at the time that the Completion Notice was issued. In the absence of evidence to the contrary, the Tribunal accepted the Respondent's submission that the outstanding works could reasonably be completed within three months of service of the Completion Notice. The Tribunal decided that the Completion Notice was therefore valid and dismissed the Appeal.

*Michael Flanigan*

Chairman.

**Date decision recorded in register and issued to the parties: 14<sup>th</sup>**

**January 2025**