

CANADA / JUDGMENT

Goncharova v. The King

Source: decision.tcc-cci.gc.ca · Research copy typeset by Esheria. Not court-issued or certified.

Source record

Docket: 2025-3156(GST)I

BETWEEN: ANASTASIA GONCHAROVA,
Appellant,
and
HIS MAJESTY THE KING,
Respondent .
Appeal partially heard on August 25, 2026 at Oakville, Ontario and continuation
heard virtually on September 15, 2026 at Ottawa, Ontario
Before: The Honourable Justice Perry Derksen

Appearances :

Agent for the Appellant: David Madronich

Counsel for the
Respondent: Andrew Stuart

JUDGMENT

In accordance with the attached Reasons for Judgment:

The appellant’s appeal from an assessment dated August 7, 2024 made under the Excise Tax Act in respect of the Appellant’s Goods and Services Tax/Harmonized Sales Tax (“GST/HST”) New Housing Rebate application, is dismissed, without costs.

Signed this 18th day of September 2026.

“Perry Derksen”

Derksen J.

Citation: 2026 TCC 172

Date: 20260918

Docket: 2025-3156(GST)I

BETWEEN:

ANASTASIA GONCHAROVA,

Appellant,

and

HIS MAJESTY THE KING,

Respondent.

AMENDED REASONS FOR JUDGMENT

Derksen J.

I. Overview

[1] This appeal concerns whether the appellant is entitled to the Ontario New Housing Rebate in respect of the purchase of a new condominium unit located at 251 Manitoba Street, in Etobicoke, Ontario (the “Rebate Property”).

[2] The statutory scheme for the rebate is in s. 256.21 of the Excise Tax Act , R.S.C., 1985 c. E-15 (“ETA”), as further prescribed in s. 41(2) of the New Harmonized Value-added Tax System Regulations , No. 2, SOR/2010-151, as amended (“Regulations”). [1] The scheme adopts the rules in s. 254(2) of the ETA for a separate rebate for the federal portion of the HST, which is not in issue since the purchase price of the Rebate Property was \$538,888 and exceeds the \$450,000 limit in s. 254(2).

[3] The Crown’s pleaded in the reply that the appellant is not entitled to the rebate because the conditions in ss. 254(2)(b) and (g) are not satisfied.

[4] The condition in s. 254(2)(b) requires that, at the time the particular individual becomes liable or assumes liability under an agreement of purchase and sale of the residential condominium unit entered into between the builder and the particular individual, the particular individual is acquiring the unit “for use as the primary place of residence of the particular individual or a relation of the particular individual.” This can be more succinctly described as the primary place of residence condition.

[5] The relevant portion of the condition in s. 254(2)(g) requires that the first individual to occupy the unit as a place of residence at any time after substantial completion of the construction be an individual, or a relation of an individual, who was at that time a purchaser of the unit under an agreement of purchase and sale of the unit. Simplified, the occupation condition requires that the appellant, as the purchaser, or a relation of the appellant, must have occupied the Rebate Property as a place of residence.

[6] In argument, counsel for the Crown focused on the condition in s. 254(2)(b) and said the condition in s. 254(2)(g) was not contested.

[7] For the reason set out below, I have concluded that the appeal must be dismissed.

II. The primary place of residence condition — s. 254(2)(b)

[8] Turning to the condition in s. 254(2)(b), I must consider the appellant's intention at the time that she (along with Mr. Madronich) entered into the assignment agreement on November 16, 2021, to acquire the Rebate Property from the builder. When the appellant assumed the obligations under the purchase and sale agreement, was she acquiring the Rebate Property for use as a primary place of residence for herself, or a relation?

[9] In *Charlebois v. the King*, 2025 TCC 76 [*Charlebois*], I recently stated that, in considering a person's intention or purpose, a person's conduct is generally more revealing than "ex post facto declarations" and emphasized that Courts are, therefore, not guided only by a person's subjective statements of purpose and instead will look for objective manifestations of purpose and examine the surrounding factual circumstances: see *Charlebois* at para. 12, citing *MacDonald v. Canada*, 2020 SCC 6, at para. 22 and *Symes v. Canada*, [1993] 4 SCR 695, at p. 736.

[10] What is required is a clear and settled intention to occupy the property as a primary place of residence: *Kniazev v. The Queen*, 2019 TCC 58, [*Kniazev*] at para. 7. Parliament's use of the word "primary" suggests that the person must have a settled intention to centre or arrange their personal and family affairs around that property: *Kniazev* at para 8.

[11] Moreover, the actual use of the property may be evidence of a person's intention and a more reliable indicator (see *Coburn Realty Ltd. v. The Queen*, 2006 TCC 245, at para. 10).

[12] Some additional factual context is necessary in considering whether the condition in s. 254(2)(b) is satisfied here.

[13] Mr. Madronich inherited a piece of vacant land in Caledon East, north of Brampton. The appellant and Mr. Madronich had hoped to build their dream home on that land. Toward that goal, in 2021 the appellant and Mr. Madronich sold their family home located in Innisfil, which they had owned for nine years. They next signed a one-year lease to rent a three-bedroom townhouse located on Phyllis Drive, in Caledon, with occupancy beginning on April 1, 2021. I will refer to the Phyllis Drive property as the "Caledon Rental."

[14] Mr. Madronich had started to clear trees on the vacant land when he was not busy with his work as a pilot, flying in and out of Pearson Airport in Toronto. The work on the vacant land was progressing slowly and the soil was muddy.

[15] Turning to their family, the appellant and Mr. Madronich have two children. The children had been doing online school during the throes of the COVID-19 pandemic. In the summer of 2021, the appellant registered the children with the Dufferin Peel Catholic School Board. They continued with online learning going into the fall of 2021.

[16] Around the same time, specifically in the fall of 2021, the appellant and Mr. Madronich were confronted with the frustrating reality that building their dream home on the vacant land in Caledon East was not feasible in the near term; it would take a lot longer than they had hoped. The clearing was ongoing, but they were nowhere near ready to apply for permits.

[17] In October 2021, the appellant started to look at different options to purchase a home. She began looking in what she considered to be a desirable area, predominantly in Etobicoke, and zeroed in on the condominium building under construction at 251 Manitoba Street. Since Mr. Madronich was a pilot flying in and out of Pearson airport, the appellant testified that the location was helpful, being about 12 minutes away from the airport in good traffic. The location was also close to Mr. Madronich's childhood home, and they liked the amenities planned for the building and those nearby.

[18] As mentioned, on November 16, 2021, the appellant and Mr. Madronich entered into an assignment agreement to acquire the Rebate Property from the builder when construction was completed. The Rebate Property was a one bedroom, 499 square-foot condominium unit. Occupancy was projected for the spring of 2022.

[19] The appellant testified that the intention, at the time of entering into the assignment agreement, was that the Rebate Property would be their family home and primary residence and that they would stay in the property until their dream home could be constructed, maybe in two or three years. She also testified about hopes that her children might eventually be able to use the Rebate Property if they moved to Toronto to study after completing high school.

[20] In the spring of 2022, the appellant's children transitioned from online learning and began attending an elementary school located about one kilometre from the Caledon Rental. The school was also a feeder school for the Robert F. Hall High School located in Caledon East. And so, the appellant's son was registered to begin attending that high school for the fall of 2022 on the premise that the family was residing in the school district where the Caledon Rental was located. The high school is located about 19 kilometres northeast from the Caledon Rental.

[21] The one-year lease on the Caledon Rental ended in April 2022 and converted to a month-to-month lease.

[22] The appellant was given possession of the Rebate Property on July 22, 2022.

[23] In late July and early August, the appellant purchased a queen-sized bed and a multifunction sofa bed for use at the Rebate Property. Around the same time, some additional household items were purchased at Ikea, including a small table and chairs. At some point, after possession was granted, the appellant's parents were visiting from Russia, and the appellant's father guided his granddaughter in the assembly of some of the Ikea furniture.

[24] Meanwhile, the appellant and Mr. Madronich continued to rent the Caledon Rental. Although they moved some valuables to the Rebate Property, their other furniture—most of it older—remained at the Caledon Rental. And their son began attending the Robert F. Hall High School located in Caledon East in the fall of 2022 and their daughter continued to attend the elementary school close to the Caledon Rental.

[25] The purchase of the Rebate Property closed on December 12, 2022, and title was transferred on December 13, 2022. About four months later, on April 18, 2023, the Rebate Property was listed for sale and the sale closed on September 5, 2023.

[26] Soon after, in October 2023, the appellant and Mr. Madronich entered into an agreement to purchase a home in Arthur, Ontario. That purchase closed in 2024 and then the appellant and Mr. Madronich ceased renting the Caledon Rental.

[27] The appellant testified that the family occupied the Rebate Property and that it provided sufficient space for her family of four, together with two small dogs. Various photos were introduced into evidence supporting some use of the Rebate Property: photos of the children eating meals; others of the children using the amenities in the building or nearby; and some with the appellant's parents visiting.

[28] During the course of her direct evidence, the appellant mentioned an incident that had happened in the building and then everything no longer felt safe. That incident involved a shooting at 251 Manitoba Street. A woman was killed. The appellant's mother had been at the Rebate Property while visiting from Russia and she captured some photos of emergency vehicles that attended the scene. And a newspaper article entered into evidence confirms that the shooting occurred on May 10, 2023. The timeline reviewed above establishes that the Rebate Property was listed for sale before the shooting.

[29] As for why the Rebate Property was listed for sale, the appellant also testified that it was because of disturbances in the building that occurred as new owners began to move in—loud noises, including pets making noises that made it difficult to sleep, garbage, and those sorts of things. This, the appellant said, made her and her husband rethink staying there.

[30] Considering the appellant's evidence, together with the documentary evidence and the assumptions of fact, I am unable to conclude that the Rebate Property was acquired for use as the primary place of residence of the appellant and her family. In my view, the appellant's evidence is too implausible.

[31] I acknowledge that the appellant and Mr. Madronich arranged for Wi-Fi, placed insurance, and changed some of their mailing addresses to the Rebate Property. Moreover, Mr. Madronich changed his driver's licence to the Rebate Property. And so, one might fairly ask—is the Court being inconsistent? In some cases, the absence of these sorts of steps might suggest that a property was not acquired for use as a primary place of residence or that occupancy was lacking and yet in another case these same steps do not tip the balance of probabilities in favour of the purchaser.

[32] Here, there are two key reasons why I find the appellant's evidence implausible.

[33] The first concerns the ongoing rental of the Caledon Rental throughout the relevant timeline, and after the sale of the Rebate Property until the appellant moved into the new home in Arthur. Mr. Madronich says the evidence supports a finding that the Caledon Rental was kept because they used it for storage. This begs the question of why pay for storage for “old furniture”

that apparently was set outside for taking when they were leaving the Caledon Rental in 2024. In short, I am unable to accept the argument that the Caledon Rental served as a pied-à-terre and place for storage in light of the evidence.

[34] The second reason concerns the attendance of the children at their schools. The elementary school that the appellant's daughter attended was a short drive from the Caledon Rental and about 42 kilometres from the Rebate Property. And the high school that the appellant's son attended beginning in the fall of 2022 was about 19 kilometres from the Caledon Rental and about 53 kilometres from the Rebate Property.

[35] Is it possible that a family of four, with two older children (one of whom was headed to high school), and two small dogs could reside in a 500-square-foot one-bedroom condominium unit as a primary place of residence? Yes.

[36] Is it plausible that the appellant and her family would do so, considering they left a home in Innisfil where they resided for years, and then moved into a three-bedroom townhouse as an interim stop and kept renting it until 2024? No; not based on the evidence and common sense.

[37] The appellant and her husband purchased the Rebate Property free and clear, without mortgage financing. There was no financial reason or need for the appellant's family to squeeze into a tiny condominium.

[38] Moreover, I am unable to accept the premise that the Rebate Property, located in Etobicoke, became attractive for the reason that it was closer to Pearson Airport (which was Mr. Madronich's base of work as a pilot) yet—at the same time—the appellant and Mr. Madronich would drastically increase the driving distance in the morning and after school to get their children to and from the schools.

[39] There is some evidence that the appellant and her family used the Rebate Property, or that her parents used it once or twice during a visit. The furniture that was purchased could just as easily serve as staging furniture. Considering the ongoing rental of the Caledon Rental, I think it is more likely that the townhouse served as their base of operations as a family, in effect their home. This is also supported by a water utility bill that was entered into evidence for the Caledon Rental.

[40] The statutory scheme in ss. 254(2)(b) and (g) does not contemplate an acquisition of a condominium unit for use as a secondary residence or a "pied-à-terre." : see Kniazev at para. 8. Instead, it is aimed at individuals who are acquiring a property to be their primary place of residence, or the primary place of residence of a relative.

[41] Here, considering the appellant's conduct, the surrounding circumstances and the objective manifestations of purpose, I am not satisfied, on a balance of probabilities, that at the time the appellant entered into the assignment agreement to acquire the Rebate Property from the builder that it was for use as her family's primary place of residence as required by s. 254(2)(b).

[42] In light of the Crown's position on s. 254(2)(g), it is unnecessary for me to further consider the question of occupancy. Nonetheless, I find the concession puzzling since occupancy as a place of residence involves more than what likely occurred here (see *Sindhi v. The King* , 2023 TCC 102 at para. 24; *Kniazev* at para. 9; and *Salac v. The King* , 2026 TCC 153 at paras. 65-67).

III. Conclusion

[43] The appellant's appeal is dismissed, without costs.

These Amended Reasons for Judgment are issued in substitution of the Reasons for Judgment dated September 18, 2026 to change the date at the top of the first page of the Reasons for Judgment.

Signed this 24th day of September 2026.

"Perry Derksen"

Derksen J.

CITATION:

2026 TCC 172

COURT FILE NO.:

2025-3156(GST)I

STYLE OF CAUSE:

ANASTASIA GONCHAROVA v. HIS MAJESTY THE KING

PLACE OF HEARING:

Oakville, Ontario

DATES OF HEARING:

August 25, 2026 and September 15, 2026

REASONS FOR JUDGMENT BY:

The Honourable Justice Perry Derksen

DATE OF JUDGMENT:

September 18, 2026

APPEARANCES:

Agent for the Appellant:

David Madronich

Counsel for the Respondent:

Andrew Stuart

COUNSEL OF RECORD:

For the Appellant:

Name:

n/a

Firm:

n/a

For the Respondent:

Marie-Josée Hogue

Deputy Attorney General of Canada

Ottawa, Canada

[1] The Crown's reply cites s. 47(3) of the Regulations, which concerns the new residential rental property rebate, and I presume that was a slip.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://decision.tcc-cci.gc.ca/tcc-cci/decisions/en/item/521709/index.do>

CASE PAGE <https://chat.esheria.ai/case-law/canada/goncharova-v-the-king-2026>

Prepared on 23 October 2026 · Esheria