

Cardtronics UK Ltd and others v Sykes and others (Valuation Officers) [2020] UKSC 21

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Facts

This case concerned the treatment for rating purposes of ATMs in supermarkets or shops owned by retailers. In each of the appeals, the ATMs were installed and operated under contractual arrangements with related banking companies. They fell into four categories:

1. External ATMs in supermarkets which could be used 24 hours a day.
2. Internal ATMs in supermarkets which could only be accessed when a shop was open.
3. Convenience store ATMs (which were similar to external ATMs in supermarkets, save that the smaller floorspace of the stores meant that their maintenance and loading lead to greater interference with the stores' workings).
4. Movable ATMs (there was only one example in this category).

The valuation officers listed the sites of the ATMs as separate hereditaments in the rateable occupation of the banks (meaning they were separately assessed for business rates).

Issues

1. Were the sites of the ATMs capable of being identified as separate hereditaments?
2. Who was in rateable occupation of the sites of the ATMs?

Decision

1. With the exception of the moveable ATM, there was no difficulty in all cases in satisfying the legal test for a hereditament - a self-contained piece of property (even though the ATM sites required extensive use of the host stores for access and servicing).
2. The retailers retained occupation of the ATM sites, even though they had conferred on the banks rights which substantially restricted their use of those sites. Both parties shared the economic fruits of the specific activity for which the space was used, as the presence of the ATMs furthered the retailers' general business purposes and provided them with an income.

While external ATMs were available to a wider market at all times and were physically separated from the other facilities in the store, the retailers remained in occupation of those ATM sites as well, as they were not any less part of the retailers' overall business.

Points to note/consider

1. The appeals in this case were designated as lead appeals. According to the judgement in this case, appeals relating to some 10,000 other sites (amounting to some 34,000 appeals in all) had been stayed pending the final decision in this case. It is believed that refunds in business rates of hundreds of millions of pounds are due now to retailers as a result of the Supreme Court's decision.
2. This decision is good news for consumers as well as for retailers. Had it gone the other way, many retailers may have had no choice but to take out their ATMs to save rates, as well as things like children's rides, photo booths and drinks machines (which it is very likely the Valuation Office Agency would also have looked to assess separately for rates on the same principle).

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