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What do you do if you find a bag of cash? Criminal proceeds can be seized Quebec money fate unknown

What would you do if you were renovating your newly purchased home, and found a bag containing \$100,000 in \$20 bills hidden above a ceiling panel in the bathroom?

Do you keep it and say nothing, turn it over to the police, or quietly sell the house and take the cash with you?

That was the problem faced last month by a couple in Trois-Rivieres, Quebec.

They purchased the house at 2620 Andr St. in June from a bank that had repossessed it when the mortgage went into default.

The former owner of the house was Marc-Andr Hinse, the alleged head of the Hells Angels motorcycle gang in Trois-Rivieres. Local police have been looking for Hinse since May 2004, when they carried out raids on members of the biker gang.

At the time, the police executed a search warrant on the house, but missed the plastic bag containing the money. After the police were finished, the bank took over and eventually sold the place.

After I heard about the discovery in Trois-Rivieres, I began to wonder who was entitled to the bathroom bounty. I hunted down a copy of *Principles of Property Law*, a popular text for first-year law students written by professor Bruce Ziff of the University of Alberta.

An entire chapter about lost objects begins with the comment, "The law of finding is not an area of pressing practical concern."

The statement, of course, is quite true unless you happen to find a bag full of money hidden in your house, and you don't know or don't want to know who it belongs to.

That's what happened to a Toronto lawyer back in 1988 while his contractors were renovating an 1880s Victorian house he had purchased. When nearly \$50,000 came raining down on the contractors from the ceiling, everybody wanted the money the owner, the daughter of the former owner, and of course, the workers.

Sadly, the outcome remains a mystery, as the parties signed a non-disclosure agreement when the case was settled.

Although Quebec laws may differ, the law in Ontario is "finders keepers."

In other words, the finder of an item gets good title to it against the whole world except for the rightful owner. But the rule gets muddled when the article has been abandoned, or is the proceeds of crime.

If there is proof that the bathroom bounty came from criminal activity, it can be seized.

Was the Trois-Rivieres money abandoned by whoever put it in the ceiling? Can anyone prove it is the proceeds of crime?

What is the risk that an imposing gentleman in leather attire and driving a large two-wheeled vehicle would knock on the door one day and politely request the return of his missing property?

Meantime, the \$100,000 has been turned over to the local police and its fate is awaiting a determination by the Quebec court.

The judge hearing the case will no doubt recall the 1969 British case of *Moffat v. Kazana*.

In that case, Kazana purchased a house in 1961 and three years later workers dislodged a biscuit tin containing almost 2,000 from the chimney. Kazana turned the money over to the police, who eventually gave it back to him.

Then the former owners, a couple named Russell, sued Kazana claiming ownership of the loot.

The court awarded the money and the tin to the Russells who were the "true owners," concluding that they simply forgot about it but never abandoned the intent to own it.

Another interesting finder's case occurred in 1949 when a 12-year old boy playing with his friends crawled under a pool-room in Fort Frances and discovered about \$1,500 in a tin resting on the support beams of the building. At the time, \$1,500 was a huge sum of money.

The police seized the cash but the Ontario High Court eventually awarded it to the youngster when no one came forward to claim it.

If you owned 2620 Andr St. in Trois-Rivieres, and discovered \$100,000 in the ceiling of your bathroom, what would you do with the money?

I'd love to hear from you by fax or email. I'll report the results of the case when and more importantly, if they become available.

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