

CANADA / JUDGMENT

98668 Canada Inc., Re

2005 FC 642

COURT
Federal CourtDECIDED
6 May 2005

Source: decisions.fct-cf.gc.ca · Research copy typeset by Esheria. Not court-issued or certified.

98668 Canada Inc., Re Court (s) Database Federal Court Decisions Date 2005-05-06 Neutral citation 2005 FC 642 File numbers ITA-2865-99 Decision Content Date: May 6, 2005 Docket: ITA-2865-99 Citation: 2005 FC 642 Montréal, Quebec, May 6, 2005 Present: RICHARD MORNEAU, ESQ., PROTHONOTARY In the matter of the Income Tax Act, and In the matter of an assessment or assessments by the Minister of National Revenue under one or more of the Income Tax Act, Canada Pension Plan, Employment Insurance Act, AGAINST: 98668 CANADA INC. Judgment Debtor and 107470 CANADA INC. Garnishee and 150460 CANADA INC. and 105992 CANADA INC. and G.J.Q. MANAGEMENT INC. Mises-en-cause and SANDRA STEIN Opposing party REASONS FOR ORDER AND ORDER

- [1] The letter from the opposing party, Sandra Stein, dated May 6, 2005 does not bring me to vary my Direction dated May 5, 2005. The opposing party's motion to oppose (the opposing party's motion) was therefore heard on May 6, 2005 and the instant reasons for order and order dispose of it.
- [2] I do not find that the opposing party can access the provisions of the Quebec Code of Civil Procedure (C.C.P.) to stay the execution of the final order of garnishment rendered on February 25, 2005 or to request its nullity.
- [3] The opposing party seeks said remedies on the main allegation that she is since April 7, 2003 the owner of the property garnished by the final order of February 25, 2005.
- [4] However, said property has been provisionally garnished to the judgment creditor by the order of this Court dated April 29, 2002. The Court does not doubt that the opposing party has been aware of said order of April 2002 for a long time since she is the wife of the alleged former shareholder of the judgment debtor.
- [5] Therefore, it was open to her at any time between April 2002 and February 25, 2005 to resort to rule 455 of the Federal Courts Rules in order to assert her right of ownership. Said rule reads:

455. (1) If, on a motion under rule 449, it is brought to the notice of the Court that a person other than the judgment debtor is or claims to be entitled to the debt sought to be attached or has or claims to have a charge or lien on it, the Court may order the person to attend before the Court and state the nature of his or her claim.
455. (1) Si, par suite de la requête visée à la règle 449, il est porté à la connaissance de la Cour qu'une personne autre que le débiteur judiciaire a ou prétend soit avoir droit au paiement de la créance à saisir-arrêter, soit avoir une charge ou un privilège sur cette créance, la Cour peut ordonner à cette personne de comparaître devant elle et d'exposer la nature de sa réclamation.
- (2) After hearing a person who attends before the Court under an order made under subsection (1), the Court may summarily determine the questions at issue between the claimants or order that it be determined in such a manner as the Court may direct.
- (2) Après avoir entendu la personne visée au paragraphe (1), la Cour peut juger par procédure sommaire les questions en litige entre les réclamants ou ordonner qu'elle soit instruite de la manière qu'elle précise.
- [6] She did not do so, and I clearly do not think that she can now raise the provisions of the C.C.P. to stay the execution of the order of February 25, 2005. The Rules are exhaustive of the remedies that were possibly available to the opposing party in due course. Once a final order of garnishment is rendered, the Court cannot entertain any more claims to the property covered by said final order.
- [7] Similarly, the alternative remedy sought by the opposing party regarding the fixing of an opening bid is also denied. Said party clearly does not have access to the provisions of the C.C.P. relied on for that purpose. Moreover, the opening bid issue is already covered by the final order of February 25, 2005.
- [8] The opposing party's motion is therefore dismissed in its entirety, with costs.
- [9] For greater certainty, the final order rendered by this Court on February 25, 2005 is maintained in full and there is no stay of the sale scheduled on May 9, 2005. Richard Morneau Prothonotary FEDERAL COURT SOLICITORS OF RECORD DOCKET: STYLE OF CAUSE: ITA-2865-99 In the matter of the Income Tax Act and in the matter of an assessment or assessments by the Minister of National Revenue under one or more of the Income Tax Act, Canada Pension Plan, Employment Insurance Act, AGAINST: 98668 CANADA INC. Judgment Debtor and 107470 CANADA INC. Garnishee and 150460 CANADA INC. and 105992 CANADA INC. and G.J.Q. MANAGEMENT INC. Mises-en-cause and SANDRA STEIN Opposing party PLACE OF HEARING: Montréal, Quebec DATE OF HEARING: May 6, 2005 REASONS FOR ORDER: RICHARD MORNEAU, ESQ., PROTHONOTARY DATE OF REASONS FOR ORDER: May 6, 2005 APPEARANCES: Mr. Pierre Lamothe FOR THE JUDGMENT CREDITOR Mr. Konstantinos Voggas FOR THE OPPOSING PARTY SOLICITORS OF RECORD: John H. Sims, Q.C. Deputy Attorney General of Canada FOR THE JUDGMENT CREDITOR Sweibel Novek

Montréal, Quebec FOR THE OPPOSING PARTY

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://decisions.fct-cf.gc.ca/fc-cf/decisions/en/item/51130/index.do>

CASE PAGE <https://chat.esheria.ai/case-law/canada/98668-canada-inc-re-2005>

Prepared on 26 October 2026 · Esheria