

CANADA / JUDGMENT

Ashrafinia v. Farahani

2009 BCSC 1866

COURT

Supreme Court of British Columbia

DECIDED

21 April 2009

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2010 BCSC 1866 Ashrafinia v. Farahani

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Ashrafinia v. Farahani,

2009 BCSC 1866

Date: 20090421

Docket: E081743

Registry: Vancouver

Between:

Sima Ashrafinia

Plaintiff

And:

Fariborz Farahani

Defendant

Before: The Honourable Mr. Justice Savage

Oral Reasons for Judgment

In Chambers

Appearing on her own behalf:

S. Ashrafinia

Appearing on his own behalf:

F. Farahani

Place and Date of Trial:

Vancouver, B.C.

April 20, 2009

Place and Date of Judgment:

Vancouver, B.C.

April 21, 2009

- [1] THE COURT: This is a divorce proceeding commenced by Sima Ashrafinia, hereafter referred to as the wife, against Fariborz Farahani, hereinafter referred to the husband. There is no claim for support and the only issue concerns the division of family assets.
- [2] The wife was born October 26, 1957; the husband born March 4, 1956. The parties were married on March 4, 1998, in Tehran, Iran, although they only commenced cohabitation in Canada in August 1999. There are no children of the marriage, although both parties had children from previous marriages.
- [3] Shortly after cohabitation, the parties separated. They separated for approximately two years until sometime in 2000 or 2001. They remained together until February 9, 2008. There was an altercation on that date, police attended, and they separated permanently thereafter.
- [4] According to the Form 89 financial statements, in May 2000 the parties purchased the family home at 2008 Fullerton Avenue, being strata lot 154. There is a dispute regarding who made the down payment.
- [5] The wife says this was made with a tax refund she received. The husband says that the money came from an inheritance he received from his parents. The down payment was relatively modest. The home was renovated from time to time during the marriage. I am satisfied that both parties made substantial contributions to the mortgage, strata fees, purchase, and upkeep of the home during the course of the marriage.
- [6] Following separation, the wife remained in the matrimonial home. She paid the mortgage. The husband paid the line of credit. The strata fees are in arrears, although the wife recently made a payment and has arranged to pay off the balance over time.
- [7] There is a dispute regarding the equity in the family home. There is registered against the family home a sizeable mortgage. There is also a line of credit secured against the home. The amount owing on the line of credit and the mortgage is approximately \$300,000, perhaps a little bit less, \$297,000.

- [8] The parties disagree somewhat regarding the value of the matrimonial home. The husband believes that the value is that shown on the most recent assessment notice or \$348,000. The wife believes that is too high. An apartment one floor up is listed for \$340,000. The wife has not been in that apartment. Both parties said they had made substantial renovations to strata lot 154 with many improvements. Doing the best I can with the evidence before me, I find that the amount of equity in the matrimonial home is \$45,000.
- [9] During the last year, both parties drew down their RRSPs. The husband withdrew substantially more than the wife. The total of his withdrawal is \$7,923.86. On the other hand, the wife had sole possession and occupancy of the matrimonial home. In the circumstances, in my view, these factors are offsetting and there is no adjustment to be made based on the RRSP withdrawals and the fact that the wife had possession and occupancy of the matrimonial home.
- [10] The parties, during the course of trial, agreed on a division of the contents of the matrimonial home. The contents of the matrimonial home are, of course, in the home or in storage which is part of the home. The husband's share which is agreed is as follows: one Persian carpet; a 32-inch high definition Panasonic TV and TV box; computer; monitor; printer; a small stereo; his personal and family pictures; his musical instrument, a santoor; one drawer; a toaster oven; IKEA sofa bed; tools; dining table and chairs; sheets and blanket; family heirlooms; tent and cot; personal belongings; and one Tiffany lamp.
- [11] The wife informs me that she has included some of these items and items additional to the above and set those aside for the husband, and the husband is, of course, at liberty to do what he wishes with those other things. The husband is entitled to pick up his share of the contents described above within two weeks of today's date. The parties shall arrange a time. Apparently, on two previous occasions, pick-up was thwarted and there are disputes regarding whose fault that was. I place no blame on either party for this.
- [12] The wife shall, in any event, ensure that she is present at least one-half hour before and after the appointed time for pick-up. The husband may be accompanied by a friend. The wife may be accompanied by a friend. The wife says that most of the things in question are already packed and in a locker at the building. If that is so, then the husband can pick up the things there. The wife shall arrange to have the television and the TV box put there. All items should be handled with care.
- [13] The wife says she is missing a book of poetry. The husband shall search his things and, if he finds the missing book of poetry, shall arrange for it to be returned by a third party to the wife.
- [14] Shortly before the parties separated, the husband without the wife's consent withdrew \$28,200 from the line of credit to purchase a new car. The car has, of course, depreciated since the purchase. It is paid in full. In light of the fact that the wife did not consent to this, the husband must compensate the wife for this amount, \$28,200. The husband keeps the car.

- [15] I found there to be \$45,000 equity in the matrimonial home. The wife has asked for a reapportionment, an unequal division, of the family assets. She made various statements seeking to justify this, the husband making some withdrawals, her belief that he had sent money to his family, his taking some vacations alone, having a separate U.K. bank account. The husband countered that he may have withdrawn \$500 once or twice, but this was for family purchases. He took two vacations alone and gave reasons for doing so. He did not send money to his family, but they sent money to him. The U.K. bank account was opened when he was a student in England. The bank has gone out of business. There was not more than £100 in that bank account in any event.
- [16] I appreciate that the wife has worked very hard, but based on the evidence before me I would not reapportion the family assets. I would, however, compensate the wife for the husband's purchase of the car from the line of credit.
- [17] The wife wishes to have the matrimonial home. The husband does not object to this, but doubts that the wife would qualify for financing. If the wife is to have the family home, she needs to purchase his share of the equity and refinance into her name the debt. As I have said, there is \$45,000 in equity in the family home. The husband took \$28,200 for purchase of the car. So the wife should be credited that amount and the balance divided equally. \$45,000 minus \$28,200 equals \$16,800. One-half of that is the husband's share or \$8,400.
- [18] The wife has 60 days to obtain financing to pay out the mortgage, the line of credit, the total amount of which I indicated is \$297,000. Upon refinancing and payment to the husband of \$8,400, the husband is required to convey title to the property to the wife.
- [19] If the wife is unable to obtain financing within 60 days, then the property shall be sold. The wife shall have conduct of the sale, but the husband shall be regularly informed by the realtor concerning the progress of the sale. Upon sale, should that occur, the parties shall divide the equity equally after deduction of the sum of \$28,200 from the husband's share. During the next 60 days, unless refinancing occurs earlier, the wife shall pay the mortgage and the strata fees and the husband shall pay the line of credit. After 60 days, the wife shall pay the mortgage, the strata fees, and the husband will pay the line of credit until resale or until further order of the court.
- [20] There is a lease agreement between Capilano Volkswagen Audi Inc. and the husband and wife for a 2008 black Volkswagen Golf City sedan. The wife shall endeavour to have the lease agreement cancelled and a new lease agreement issued in her name alone. If she is unable to do that, she must indemnify and save harmless the husband from any claims made against him by Capilano Volkswagen arising out of the lease.
- [21] The husband was sponsored by the wife to come to Canada. Because of an initial period of unemployment, the wife became liable for monies owed pursuant to the sponsorship program. The husband produced documents showing that he had paid off the amount due under the program. The wife will remain liable under the program for a short period of time should the husband require Social Services, etc., that are repayable to the Province under

the sponsorship default program. The husband will indemnify and save harmless the wife from any claims made against her in respect of the sponsorship default program.

[22] The parties have each contributed to pensions during the course of their marriage and employment in Canada. The pension benefits shall be split in accordance with their respective entitlements based on the period of the marriage as provided in the applicable legislation.

[23] Both parties seek a divorce. They have lived apart more than one year. There is no prospect of reconciliation. The parties are divorced from each other, the divorce to take effect 30 days after entry of the order in the usual course.

[24] As success is divided, there is no order as to costs.

"The Honourable Mr. Justice Savage"

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://www.bccourts.ca/jdb-txt/SC/09/18/2009BCSC1866.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/ashrafinia-v-farahani-2009>

Prepared on 29 October 2026 · Esheria