

CANADA / JUDGMENT

Chilton v. McDowell

2020 BCSC 671

COURT

Supreme Court of British Columbia

DECIDED

30 April 2020

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2020 BCSC 671 Chilton v. McDowell IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Chilton v. McDowell, 2020 BCSC 671 Date: 20200430 Docket: E141696 Registry: Vancouver Between: Jeffrey Scott Chilton Claimant And Jayun McDowell Respondent Before: The Honourable Mr. Justice Funt Reasons for Judgment Counsel for the Claimant: J. Broadhurst Counsel for the Respondent (appearing on May 21, 2019 only): G.K. Thomas The Respondent, appearing in person (on October 4, 2019 only): J. McDowell Place and Dates of Hearing: Vancouver, B.C. May 21 and October 4, 2019 Place and Date of Judgment: Vancouver, B.C. April 30, 2020

- [1] In 2016, this family law matter came before me for trial in order to resolve two issues: first, when the parties began to live in a marriage-like relationship; and second, the spousal support, if any, to be paid to the respondent. The reasons for judgment are indexed at Chilton v. McDowell, 2016 BCSC 2203. I will refer to these reasons as the "2016 Reasons".
- [2] These reasons address the claimant's current application to end spousal support at this time.
- [3] Paragraphs 106 and 107 of the 2016 Reasons read:
- [106] In sum, Ms. McDowell is awarded \$1,380 in monthly spousal support commencing May 1, 2014 (with a set-off for amounts paid to date on account of spousal support). Subject to material change in circumstances, the spousal support is indefinite: s. 167 of the FLA. As described below, there may be a review as to quantum.
- [107] In order to promote Ms. McDowell's economic self-sufficiency, Mr. Chilton is at liberty to review the quantum of spousal support after March 2018: s. 168 of the FLA.
- [4] At the hearing, several other applications by the claimant and the respondent were addressed. These other applications were either resolved by agreement or by the giving of short reasons in court. As a result, these reasons only address the claimant's current application to end spousal support.
- [5] The claimant is now 72 years old (born September 16, 1947). The respondent is approximately ten years younger.

- [6] Both the claimant and the respondent remain in good health.
- [7] The claimant continues to operate and own NAMMEX (majority owner). Both of his sons work for NAMMEX. The claimant is looking at phasing out as his sons phase into NAMMEX and its operations as he looks towards retirement. In his May 4, 2019 affidavit, the claimant swears that his sons "are ready to take control and run [NAMMEX] without the need for any regular hands-on assistance from me".
- [8] The respondent remains, as described in the 2016 Reasons, "an energetic and intelligent individual willing to learn new skills on her own". She is currently in the process of establishing a business in relation to a niche product (as she describes it) she has produced.
- [9] The respondent's father died in March 2017. She inherited \$450,000 under her father's Will.
- [10] As a result of the 2016 trial, the respondent received approximately \$485,000 and further funds as part of the equalization in the increase in value of the parties' respective RRSPs (approximately \$70,000).
- [11] As noted in the 2016 Reasons, the respondent also owns a small cabin (in need of repair) on property she also owns and which is known as the Soames Property. The Soames Property has a value of approximately \$380,000 (respondent's Form F8 Financial Statement dated August 10, 2018).
- [12] I find that the respondent's current net worth is approximately \$1,300,000.
- [13] The respondent was awarded the \$1,380 monthly spousal support based on non-compensatory support: 2016 Reasons, paras. 93-94.
- [14] The claimant argues that the respondent's inheritance together with the surrounding circumstances, including the claimant's age, warrants the termination of spousal support.
- [15] Where spousal support has been awarded on a non-compensatory basis an inheritance is relevant. As stated in *Gosling v. Gosling*, 2008 BCSC 1323 at para. 50, which reads (in part):
- [50] In result, the defendant's inheritance is relevant. First, it is probative of a fact in issue, namely whether there has been a change in the defendant's means. Second, it is probative of the fact of what variation, if any, should be made in the event of such a change.
- [16] Paragraph 93 of the 2016 Reasons sets forth the principles underlying non-compensatory support by quoting key paragraphs from *Chutter v. Chutter*, 2008 BCCA 567.
- [17] Having regard to the principles underlying non-compensatory support, the parties' respective ages, the respondent's significant inheritance, and using 75 as the claimant's age by which his sons will be primarily responsible for the operations and economic future and success of NAMMEX, I order that the claimant's spousal support obligation will stop as of October 2022. October 2022 is the month after the claimant turns 75 years old. In the interim, the monthly spousal support will remain unchanged at \$1,380 per month.

[18] If the parties wish to speak to costs, I ask that, within 90 days of the Court resuming normal operations, they arrange through Supreme Court Scheduling a 9 a.m. 55-minute hearing before me. "Funt J."

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Prepared on 24 October 2026 · Esheria