

CANADA / JUDGMENT

Chow v. Pang

2021 BCSC 1599

COURT

Supreme Court of British Columbia

DECIDED

29 June 2021

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2021 BCSC 1599 Chow v. Pang

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Chow v. Pang,

2021 BCSC 1599

Date: 20210629

Docket: S2011267

Registry: Vancouver

Between:

Cheuk Hei Chow

Plaintiff

And

Yan Qiu Pang

Defendants

Before: The Honourable Madam Justice Choi

Oral Reasons for Judgment

The Plaintiff, appearing in person:

C.H. Chow

The Defendant, appearing in person:

Y.Q. Pang

Place and Date of Trial:

Vancouver, B.C.

April 19-21, May 17-19, and June 29, 2021

Place and Date of Reasons:

Vancouver, B.C.

June 29, 2021

- [1] THE COURT: The parties were in a dating relationship from the summer of 2014 until the summer of 2017. During their relationship and after they broke up, Mr. Chow claims that he lent money to Ms. Pang. He seeks judgment for \$69,046.85 in principal and \$15,001.42 in interest, for a total of \$84,048.27 plus prejudgment interest to the date he filed his notice of civil claim.
- [2] Ms. Pang agrees that she owes \$9,342.97 plus interest, but disputes the remaining sums. She argues that of the disputed amount, the most significant sum of \$46,000 represents funds that Mr. Chow lent to her friend in China, not to her. She also denies that Mr. Chow lent her an additional \$13,000, and says skincare products totalling \$721.88 were gifts.
- [3] Mr. Chow works at a major bank as a financial advisor. He had to borrow the funds he advanced to Ms. Pang from two lines of credit. He had to open the second line of credit after reaching the maximum on his first one. As the borrowed sums grew, the bank's interest rate also increased.
- [4] He testified that this case has caused him great difficulty at work since he has had to report this ongoing litigation to his employer and their regulatory body. He has been prohibited from dealing with client funds while the case is ongoing and has had to put his certificate on hold. If the regulatory body refuses to renew his licence due to this ongoing litigation, he will likely lose his job. He is the sole income earner for his family.
- [5] Ms. Pang was largely unemployed from 2015 to 2020. In 2015, she worked periodically part time in the kitchen of a restaurant. She was unemployed in the 2016 to 2017 period when Mr. Chow advanced most of the funds. She did sell some accessories, however, in 2016 and 2017. She was not employed in 2018. In 2019, she earned \$8,000, working part time as a babysitter for a family whose name she did not know. She had no employment income in 2020, and her residence is in flux. She lives with her older sister sometimes and with her parents at other times. She does not pay them rent. Ms. Pang went to China two to three times a year, and she says that her sister paid for the airline tickets to China.

- [6] The parties' evidence respecting the characterization of the funds is the fundamental issue before the court. Mr. Chow submits that all the funds were advanced to Ms. Pang; that it was clear that the funds were a loan from him to her, payable on demand; and that for the most part, interest was charged.
- [7] Both parties were self-represented at trial. Mr. Chow had counsel until shortly before that time, including for the examination for discovery of Ms. Pang.
- [8] Given that the parties were self-represented, the evidence was scant in many significant areas. Some key evidence was only elicited through questioning by the court. Many of the material facts are in dispute, and credibility is a significant issue in this case. There were no witnesses other than the parties.
- [9] I did not find either party to be entirely forthright. However, on an overall basis, I find that Mr. Chow's evidence better aligns with the documentary evidence, including that tendered by Ms. Pang, and with what was probable and reasonable. I find Ms. Pang to be very courteous and polite. However, her evidence was often vague, inconsistent, and not probable in many material areas. Where there is a dispute between the parties, I generally preferred Mr. Chow's evidence.
- [10] On March 30, 2021, shortly before the April 19 trial date, Mr. Chow amended his notice of civil claim to plead fraud. Ms. Pang denies the fraud.

The Issue of the Funds

- [11] Mr. Chow's pleadings set out the funds advanced to Ms. Pang as follows:

Date

Amount

January 18, 2016

\$1,546.06

January 27, 2016

\$3,000.00

January 30, 2016

\$421.29

March 26, 2016

\$190.24

April 28, 2016

\$15,000

May 30, 2016

\$110.35

August 3, 2016

\$5,000.00

August 31, 2016

\$5,000.00

November 2, 2016

\$1,000.00

November 15, 2016

\$20,000.00

April 7, 2017

\$5,000.00

May 6, 2017

\$5,000.00

November 18, 2017

\$2,500.00

November 24, 2017

\$2,100.00

December 1, 2017

\$1,000.00

November 2015 to present

\$2,178.91

TOTAL

\$69,046.85

Limitation Act

[12] Neither party raised the prospect of an issue under the Limitation Act, S.B.C. 2012, c. 13. I accept that the loans were demand loans since there were no formal terms and no fixed repayment date. The limitation period begins to run from the time repayment is demanded. Mr. Chow testified that he demanded repayment in August 2020. Ms. Pang did not respond to

that portion in her Response to Civil Claim. However, Ms. Pang testified that Mr. Chow demanded repayment in August 2020. I note there is evidence that Mr. Chow asked for repayment prior to August 2020.

- [13] Ms. Pang produced a series of WeChat texts between the parties. Both parties confirmed that the WeChat communications produced were correct. Therefore, I admit them for the truth of their contents. Ms. Pang produced the excerpts to support her contention that Mr. Chow invested \$46,000 in China to earn a usurious interest rate.
- [14] In the June 27, 2018 WeChat messages, Mr. Chow says that the deadline for repayment is the end of the year. I infer that Ms. Pang made no payment. Mr. Chow continued to advance funds to Ms. Pang by continuing to pay her Fido cell phone bill until August 2020. In an August 10, 2020 WeChat, Ms. Pang acknowledged that she had borrowed \$25,000 from Mr. Chow and that she would repay it. She told him, "I'll have at most 2000 by the end of this month, I'll see if I can pay 10000 end of next month."
- [15] I accept the limitation period started running in August 2020, and there is no Limitation Act issue to bar Ms. Chow's claim. I make this finding because:
- a) Ms. Pang acknowledged that the repayment was not demanded until August 2020;
 - b) she acknowledged that she owed over \$25,000 in August 2020; and
 - c) Mr. Chow continued to pay her Fido cell phone bills until August 2020.

Interest Rate

- [16] Mr. Chow seeks \$15,001.42 in interest, plus prejudgment interest. Given that he borrowed the funds advanced from lines of credit, for which the banks were charging him interest, Mr. Chow testified that Ms. Pang agreed to pay the interest the bank charged him. Ms. Pang agrees that the parties discussed that interest would be charged and agrees to pay interest on the sums she borrowed.
- [17] Mr. Chow does not seek interest on all sums because he says the parties did not discuss passing on the interest on some of the funds, being:
- 1) the airline ticket in the amount of \$1,546.06;
 - 2) \$3,000 for spending money in China;
 - 3) the Fido cell phone bills; and
 - 4) the Arlix skincare products.
- [18] I accept Mr. Chow's evidence that Ms. Pang agreed to pay the interest the bank charged him on the remaining amounts so that he would be made whole. Mr. Chow gave evidence that he kept contemporaneous records on Excel spreadsheets of the amounts advanced to Ms. Pang and the associated interest rates. I am satisfied from Mr. Chow's evidence of the rates the bank charged him at various times. Mr. Chow produced his spreadsheets to represent the

amounts charged by the bank on the funds that he borrowed from his line of credit to advance to Ms. Pang.

- [19] However, I note that Ms. Pang repaid \$300 on August 2, 2016, and \$620 on December 15, 2016. Mr. Chow's spreadsheets did not reflect these payments. I also note that while the banking statements show withdrawals in the amount alleged in Mr. Chow's pleadings, some of the amounts do not correspond to the dates in the pleadings. This is because some amounts were withdrawn on different days and added together with other amounts and placed on the pleadings as if they were advanced on one day. Mr. Chow gave evidence that this is how his former lawyer prepared the pleadings. Given this, I do not accept the spreadsheets as being completely accurate on the interest payable by Mr. Chow to the bank.

The \$46,000 Earmarked for China

- [20] The largest dispute in this case is around the \$46,000, which was advanced from April 2016 to November 15, 2016. The parties agree that sometime in the spring of 2016, Ms. Pang suggested that Mr. Chow could advance funds to an unnamed friend in China, whom she knew from middle school. They also agree that Mr. Chow withdrew large sums of cash from his line of credit and then drove Ms. Pang to a money exchange place that Ms. Pang suggested. Ms. Pang went into the business with the cash, with Mr. Chow either remaining in the car or going inside but waiting a bit of a distance away. In other words, Mr. Chow was not within earshot of her conversation with the teller.
- [21] The pleadings indicate that the loans were advanced on the \$46,000 as follows:
- a) \$15,000 on April 28;
 - b) \$5,000 on August 3;
 - c) \$5,000 on August 31;
 - d) \$1,000 on November 2; and
 - e) \$20,000 on November 15.
- [22] However, Mr. Chow also gave evidence that some of these amounts are not entirely accurate because his former lawyer picked a number for the pleadings--in the case of the \$15,000 on April 28--by adding other withdrawals and deposits. In any case, the parties agree that the money in issue respecting the Chinese friend totals \$46,000, excluding interest. The parties agree that there were a number of occasions where Mr. Chow withdrew large sums from his line of credit, then immediately drove Ms. Pang to the money exchange place.
- [23] The parties agree that Mr. Chow did not know Ms. Pang's friend. He learned that her first name was Li at Ms. Pang's examination for discovery. He did not know Li's last name, had never communicated with Li directly, nor did he have any contact information for Li so that he could communicate with her directly.

- [24] The parties agree that Li made two payments to Mr. Chow. The payments were deposited in Mr. Chow's bank account on August 2, 2016, for \$300, and on December 15, 2016 for \$620. Ms. Pang testified that Li gave her these amounts in Canadian cash when she was in China, and she brought this cash and gave it to Mr. Chow. As I have already noted, these payments have not been recorded in Mr. Chow's spreadsheet calculations.
- [25] The parties' evidence greatly diverged after that. Mr. Chow testified that he lent the funds to Ms. Pang after she told him that her friend was in financial need. The principal plus bank interest would be returned to Mr. Chow. He was trying to be a good boyfriend to Ms. Pang, whose friend needed his help.
- [26] Ms. Pang testified that her friend operates a loan shark business in China and that Mr. Chow invested the \$46,000 to earn a usurious interest rate. She denied that the funds were sent to help her friend out of a financial problem.
- [27] To support her oral testimony, Ms. Pang produced 13 pages of WeChat communications between the parties on the following dates: June 27, 2018; June 4, 2020; August 9, 2020; August 10, 2020; August 12, 2020; and August 14, 2020.
- [28] On the usurious interest rate that Mr. Chow expected to make, Ms. Pang points to a WeChat communication where Mr. Chow indicates that "It's previously agreed there'd be at least 400 a month" and:
- Tell her: she has never paid me the monthly 400 as agreed. The loan is now 5 years old. I've given her all help possible within my limit. The bank won't give me a loan anymore because of her, and I've been giving her time to pay since last year.
- [29] Mr. Chow maintained that he would only receive the principal plus interest charged by the bank. He would not make a profit. He denied that he sent the money as an investment for himself. His only purpose was to assist Ms. Pang's friend because Ms. Pang asked him to do so.
- [30] In the WeChat messages, Ms. Pang references that she also lent money to her friend. In a WeChat communication in August 2020, Ms. Pang stated:
- To be honest, I'm also afraid she might run away. I've also lent her twenty thousand, and she'd said to pay me interest too, but she never did. I also just hope to get my principal back. If she is unable to pay her debt and simply run away, I won't even get back my principal, I am anxious too.
- [31] At trial, Ms. Pang said that she lent Li ¥20,000 RMB, which she testified was about \$4,000. Mr. Chow points out that the WeChat and the examination for discovery evidence simply says 20,000, and that Ms. Pang did not specify that it was Chinese currency at those times.

[32] A turning point in the parties' cordial relationship came in August 2020, when Mr. Chow went to Ms. Pang's family home to ask for their assistance in returning the money. The family called the police, who then spoke with Mr. Chow. After this incident, Ms. Pang took a different position and questioned the amount of the loan. The WeChat communication states as follows.

Ms. Pang: From the time you called my family and went to my older sister's home looking for her, it has resulted in serious harassment.

First, I have doubt about the loan amount you said. I need evidence to prove how much I've borrowed. The police said that requires evidence, not whatever amount you're claiming. I won't admit to any amount without the support of evidence.

Second, you said my friend borrowed 46000 from you. I remember you received 1100, or was it 1500 in interest. I don't recall the correct amount of interest she gave you. It's you who wanted to make quick money from interest, and it is you who lent her the money, it has nothing to do with me. The police told me you should go after her, and that I don't need to be responsible.

Third, about fido, I've never wanted to be under your name. Please call fido to take out my line. Ask fido to call me.

Mr. Chow: I can meet up tomorrow and show you the detail.

Ms. Pang: I believe in the law. I believe in evidence. Since we disagree on the amount, then the most correct thing to do is to have it resolved in the small claims court.

Mr. Chow: Since we have dollar different, why don't we meet up and discuss and negotiate[.] As I say I am free tomorrow[.]

Ms. Pang: Since we disagree on the amount, I believe only the court can give this matter a fair and reasonable arrangement[.]

Mr. Chow: What is the amount difference? And you need to give me chance to explain to you or you explain to me[.] You didn't tell me what is the amount difference[.]

Ms. Pang: That's why only the small claims court can give this matter a fair and reasonable arrangement[.]

Mr. Chow: You know the money I lent you to do your business (approximately \$18500) was loaned from the bank who charges interest every month which I have been repaying all this time. You know how stressed I'm [sic]. And then the \$46000 I lent your friend was also borrowed from the bank and is also interest-bearing. For the past few years, I have been desperately repaying the loans and interest. I only want to get the principal and interest back. I am really in urgent need of cash flow. Can you return a small portion to me? I have nowhere to borrow from anymore.

[33] Mr. Chow's original notice of civil claim was filed on October 22, 2020. Ms. Pang's response, filed March 15, 2021, denied that she owed this \$46,000. She pleaded:

\$46000 plus interest is not my responsibility.

The plaintiff entrusted me with \$46000 to pass it on to my friend whom [sic] in China, my behaviour is help [sic] plaintiff in good faith, therefore I am not responsible for the loan he made with the other party. It's about their loan relationship, and his \$46000 claim (plus interest) is invalid.

- [34] When questioned by the court on the mechanics of how the \$46,000 was provided to the friend in China, Ms. Pang testified that she wired the funds to her own bank account in China, not to her friend's. Her friend did not want any extra activity in her account. Ms. Pang went to China two to three times per year, and while there, she gave her friend the funds in cash in person, or transferred them to her via WeChat.
- [35] Mr. Chow was surprised by this evidence because he had always assumed that Ms. Pang had wired the funds to her friend in China on the days that the two of them attended the money exchange place. He did not know that Ms. Pang wired the funds to her own bank account, only to give the funds to the friend at some later date in China.
- [36] He testified that he could have wired the funds directly from his bank to Ms. Pang's without having to withdraw many thousands of dollars in cash from his line of credit and taking the risk that the cash might be lost. He also received a discount on wire transfer charges, and could have transferred the funds to Ms. Pang's account in China. Why the funds were not simply wired from Mr. Chow's account to the friend's account from his bank is not in evidence.
- [37] At her examination for discovery on January 28, 2021, Ms. Pang was asked for her friend's name and contact information. She responded that the friend's first name was Li, but that she did not have an address or last name for Li. She was requested to produce Li's surname and contact information. She did not. At trial, Ms. Pang testified that she did not know Li's last name and had no contact information for her. She did not know anyone else who knew this information either. Ms. Pang testified that she and Li communicated through WeChat, but that in September 2020, Ms. Pang accidentally deleted all her communication with Li.
- [38] Ms. Pang did not produce any of her Chinese bank records. No order was sought, and no request was made. I infer that they were not requested because Mr. Chow did not know until the third day of this trial that Ms. Pang wired \$46,000 to her own bank account in China rather than to her friend's.
- [39] After Ms. Pang's discovery, Ms. Chow obtained an order to amend his pleadings to include fraud, because he suspected that Ms. Pang actually retained the funds herself. He thought it improbable that Ms. Pang could not know her friend's full name or have any contact information. The amendments were as follows:

5. In the alternative, the Plaintiff says that at all material times the Plaintiff and the Defendant were involved in a romantic relationship and the Plaintiff says further that certain of the monies that he advanced to the Defendant as set out in paragraph 4 above were advanced on the basis of the Defendant's representation to him that the funds were to be utilized by her to provide financial assistance to a friend in China, (the "China Funds")
6. The Plaintiff says further that the Defendant represented to him that she had a friend in China, who was a resident there, who would receive the China Funds and would return the China Funds and interest on demand.
7. Since the commencement of these proceedings, the Plaintiff has come to learn that in fact the Defendant perpetrated a fraud upon him by misrepresenting to him that she was going to utilize the China Funds that he advanced to her for the purposes of providing financial assistance to her friend in China.
8. The Plaintiff says further that, in fact, the Defendant did not utilize the China Funds that the Plaintiff advanced to her to provide financial assistance to her friend in China:
9. The Plaintiff says further that the Defendant instead utilized the China Funds for her own personal living expenses.
10. The Plaintiff says further that the unnamed friend in China to whom the Defendant was purportedly providing financial assistance to-either does not exist or, in the alternative, has no history of receiving the China Funds from the Defendant.
11. The Plaintiff says further that as a result of the facts set out in paragraphs 5 through 10 herein, that the Defendant has committed a fraud upon him and is liable for damages in an amount equivalent to the amount of the funds advanced by him to the Defendant in respect of that fraud.

The Law on Fraud

[40] The elements of fraudulent misrepresentation are set out in *Froese v. Sharif*, 2020 BCSC 1914:

[160] The elements of fraudulent misrepresentation that a plaintiff must prove in order to establish a claim for damages are set out in *Wang v. Shao*, 2019 BCCA 130, leave to appeal refused 38704 (14 November 2019) at para. 24:

- (a) the wrongdoer must make a representation of fact to the victim;
- (b) the representation must be false in fact;
- (c) the party making the representation must have known the representation was false at the time it was made;
- (d) the misrepresenter must have intended the victim act on the representation; and

(e) the victim must have been induced to enter into the contract in reliance upon it.

[161] One key difference between fraudulent and negligent misrepresentation is that, in fraudulent misrepresentation, the plaintiff must prove that the defendant actually knew the representation to be false (or at least was so reckless as to not care whether it was true or not) and intended that the plaintiff act upon it: *Catalyst Pulp and Paper Sales Inc. v. Universal Paper Export Co.*, 2009 BCCA 307 at paras. 56-57; *Neidermayer v. Gillies*, 2012 BCSC 143 at paras. 75-77.

[41] The plaintiff must prove that he or she relied on the representation but does not need to prove their reliance was reasonable: *Froese* at para. 162. The representation must have induced the plaintiff to enter the contract, but it does not have to be the only reason the plaintiff entered the contract. It only has to be one reason: *Sidhu Estate v. Bains*, [1996] 10 W.W.R. 590 at 603. The maker of the representation must have intended that it would induce the other party to enter the contract: *The Law of Contract in Canada*, 5th ed., by G.H.L. Fridman (Toronto: Thomson Carswell, 2006) at 291.

[42] A lack of diligence on the plaintiff's part, even if it clearly would have been prudent to make their own investigation, is not a defence to fraudulent misrepresentation: *Neidermayer v. Gillies*, 2012 BCSC 143 at para. 54; *Froese* at para. 162. The misrepresentation must have been one of fact as opposed to one of opinion or "puffing": *Fridman* at 288-89.

[43] Fraudulent misrepresentation amounts to the tort of deceit, for which the injured party will receive damages. A contract induced by fraud is voidable at the election of the defrauded party, but not void ab initio: *Fridman* at 293. The equitable remedy of rescission is discretionary: *Fridman* at 294. Damages may be awarded as well as rescission, and will be calculated on the basis of the loss suffered through the deceit, to put the injured party in the position he or she would have been in had the fraud not occurred: *Fridman* at 294; *Froese* at para. 207. The plaintiff is only entitled to be put in the position he or she would have been in had the fraudulent misrepresentation not been made, not in the position he or she would have been in if it was true: *Froese* at para. 221.

[44] I make the following key findings of fact:

- 1) Ms. Pang asked Mr. Chow to help her friend in China by lending her money because her friend was in financial distress.
- 2) Mr. Chow advanced \$46,000 to Ms. Pang for the sole purpose of helping her friend.
- 3) The parties agreed that the Chinese friend would pay the principal plus the interest charged by the bank. There was no agreement for additional interest other than to cover the interest charged by the bank to Mr. Chow.
- 4) Even if the agreement was to pay \$400 per month plus the bank interest, as alleged by Ms. Pang, which I do not find, I find that that amount is not usurious or of sufficiently high interest to qualify as an investment.

- 5) Instead of forwarding the \$46,000 to her friend, I find that Ms. Pang retained the funds for her own use.
 - 6) On the evidence before me, Ms. Pang earned little income from 2015 to 2020. Even if her sister did pay for some of her expenses, I find it more probable that Ms. Pang used the \$46,000 for her own daily living expenses.
 - 7) Ms. Pang either explicitly advised Mr. Chow, or he inferred, that she forwarded the \$46,000 to her friend.
 - 8) Ms. Pang was aware that Mr. Chow relied on her representation that the \$46,000 was going to China to assist a friend in financial need.
 - 9) Ms. Pang intended for Mr. Chow to act on that representation by borrowing money himself so that Ms. Pang could assist her friend.
 - 10) Mr. Chow was induced by Ms. Pang to advance the \$46,000 on the basis that he was assisting her friend.
- [45] I find that the elements of fraudulent misrepresentation have been proven. Fraudulent misrepresentation amounts to a tort of deceit, for which the injured party will receive damages. A plaintiff is only entitled to be put in the position he or she would have been in had the fraudulent misrepresentation not been made.
- [46] Accordingly, I find that Ms. Pang perpetrated a fraud on Mr. Chow, and he is entitled to be put in the position he would have been in absent the fraudulent misrepresentation.
- [47] Mr. Chow has not sought damages in his amended notice of civil claim. He has framed the relief in contract only, for payment of a debt. However, he did plead fraud, and Ms. Pang was well aware of the relief he was seeking, which is judgment for the principal plus bank interest. I find that it is of little practical utility to require Mr. Chow to amend his pleadings to seek damages in this circumstance.
- [48] The amount owing by Ms. Pang to Mr. Chow would not change if the pleadings sought damages respecting the \$46,000. Mr. Chow seeks to be put in the same position he would have been in, meaning he wishes to receive the principal plus the bank interest. I note the \$300 and \$620 repayments must be taken into account.
- [49] I note that Ms. Pang did not change her amended response to civil claim after the fraud amendments were made. If Mr. Chow did amend his pleadings to seek damages, I would not expect that any amendments to her pleadings would change the fundamentals of each party's position and relief sought from the court. In making this decision, I note that each party is self-represented and that requiring such amendment would delay the reasons in this case, to no practical effect.

The Agreed-Upon Debts

[50] Ms. Pang agrees that she borrowed the following sums:

- a) January 18, 2016 - \$1,546.06;
- b) November 18, 2017 - \$2,500;
- c) November 24, 2017 - \$2,100; and
- d) December 1, 2017 - \$1,000.

[51] I note that Ms. Pang signed notes contemporaneous with those sums being advanced to acknowledge these loans. Additionally, Ms. Pang agrees that Mr. Chow paid \$2,178 for her Fido phone bills from November 2015 until October 20, 2020.

[52] The parties disagree as to the purpose of the loan set out above. The first loan of \$1,546.06 was charged on Mr. Chow's credit card for Ms. Pang's air ticket to China. Mr. Chow testified that Ms. Pang's grandparent passed away in China, and she needed to go to a funeral. Ms. Pang testified that she was simply going to China to visit and vacation, and that it was not related to a family funeral.

[53] As for the sums advanced in 2017 after the parties separated, Mr. Chow gave evidence that Ms. Pang asked for assistance with a business venture involving hotels in China. Ms. Pang denied that this was the reason for the loans. Instead, she testified that she needed help with her regular living expenses.

[54] Ms. Pang's Fido cell phone bill was charged automatically to Mr. Chow's credit card. That was set up during the parties' relationship, since Ms. Pang was not employed and could not pay. After the breakup in the summer of 2017, these automatic charges to Mr. Chow's credit card continued until October 2020. Mr. Chow is not asking for interest on the Fido cell phone bills.

[55] I order that Ms. Pang pay Mr. Chow the agreed-upon amounts, as listed above.

Skincare Products

[56] Mr. Chow seeks repayment for various skincare products in the following amounts:

- a) January 30, 2016 - \$421.29;
- b) March 25, 2016 - \$190.24; and
- c) May 30, 2016 - \$110.35.

[57] Ms. Pang testified that Mr. Chow was selling these skincare products, and she agreed to try these for him. She is ordinarily quite picky about the products she uses on her face, and only uses ones recommended by her sister. She decided to use these as a way to assist him.

[58] I accept Ms. Pang's evidence that Mr. Chow gifted these products to her. She did not ask him to purchase these products, and only accepted them to try them out.

[59] I decline to order repayment of the skincare-related amounts.

The Remaining Disputed Funds

[60] The other funds in dispute are as follows:

- a) January 27, 2016 - \$3,000;
- b) April 7, 2017 - \$5,000; and
- c) May 8, 2017 - \$5,000.

[61] Mr. Chow's pleadings indicated that the May 8, 2017 advance was provided on May 6, but that there is a typo in the pleadings. I accept that explanation based on the bank records.

[62] Ms. Pang denies any knowledge of any of these funds.

[63] Mr. Chow testified that the January 27, 2016 amount of \$3,000 was advanced, so Ms. Pang could have some spending money for her trip to China. Ms. Pang agrees that she went to China, but denies the reason for her trip advanced by Mr. Chow, and denies that Mr. Chow lent her the \$3,000. I accept Mr. Chow's evidence that he lent Ms. Pang \$3,000. This was around the time that Ms. Pang went to China, and despite her evidence that her sister lent her money when she needed, I accept that she took this loan from Mr. Chow for spending money on this trip.

[64] Mr. Chow testified that he advanced \$5,000 on April 7, 2017, and \$5,000 on May 8, 2017, because Ms. Pang was involved in a business that invested in hotels in China. She needed funds for this business. Ms. Pang denies that she was involved in such a business, and testified that she has no knowledge of either of these \$5,000 amounts. I accept Mr. Chow's evidence that he lent these funds to Ms. Pang in April and in May 2017. His banking records show these withdrawals. In the WeChat communications, Ms. Pang says on August 10, 2020, "I will repay the 25000 borrowed from you ASAP".

[65] The amounts that Ms. Pang admits to borrowing equal \$9,324.97. Adding another \$13,000 brings the number closer to the \$25,000 that she admitted to in the WeChat.

[66] I accept Mr. Chow's evidence that he lent \$5,000 to Ms. Pang in April 2017 and another \$5,000 in May 2017. I make no finding as to whether Ms. Pang used those funds for a hotel business or for some other business or for any other reason. I simply accept that Mr. Chow advanced these funds to Ms. Pang.

[67] Ms. Pang was largely unemployed in the 2015 to 2020 time period, and while she did not have any obligations to pay for housing while she lived with her family, she did travel two to three times a year to China for some period of time, and had little explanation for how she paid her general living expenses. There was also no evidence of how she either had \$4,000 or \$20,000, whichever might be the case, to lend to her friend in China. She made little income from work, and it was unclear how she could have amassed any funds to lend to anybody else.

[68] I accept that Mr. Chow lent the funds set out in para. 4 of his amended notice of civil claim to Ms. Pang, except for the Arlix products, which I find that he gifted to her.

Interest

[69] There remains the issue of interest. Mr. Chow gave evidence that his interest rate fluctuated depending on the prime rate. I accept that evidence, and the evidence of the rates set out in the documents produced. However, I am not satisfied that the amount set out in the Excel spreadsheets created by Mr. Chow are entirely accurate, because the payments from Ms. Pang are not reflected in these spreadsheets. Mr. Chow's calculations indicate that Ms. Pang owes interest, to the commencement of trial, of \$16,495.31 for the items for which Mr. Chow seeks interest.

[70] Rather than compelling the parties to litigate further, I accept that the interest amount will not be appreciably different if the amounts Ms. Pang repaid are incorporated. For that reason, I order that Ms. Chow pay \$16,000 in interest.

Conclusion

[71] If the parties cannot agree on the amounts to be paid pursuant to these reasons, they are directed to appear before the Registrar of the Supreme Court for an inquiry and accounting as to what amounts are due. The registrar will certify the results of the inquiry and accounting pursuant to the Supreme Court Civil Rules, R. 18-1(2). Prior to appearing before the Registrar, the parties must schedule a prehearing conference.

[72] Lastly, I find that Mr. Chow is clearly the successful party, and I therefore order that Ms. Pang pay his costs at Scale B.

"Choi J."

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