

CANADA / JUDGMENT

Ebrahimi v. Mineyee

2019 BCSC 379

COURT

Supreme Court of British Columbia

DECIDED

19 March 2019

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2019 BCSC 379 Ebrahimi v. Mineyee

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Ebrahimi v. Mineyee,

2019 BCSC 379

Date: 20190319

Docket: E152908

Registry: Vancouver

Between:

Ahmadreza Ebrahimi

Claimant

And:

Kharaman Snoor Mineyee

Respondent

Before: The Honourable G.C. Weatherill

Reasons for Judgment

Counsel for the Claimant:

S.B. Coen

Counsel for the Respondent:

R.K. Chambers

Place and Date of Trial:

Vancouver, B.C.

February 25-28, March 1, 2019

Place and Date of Judgment:

Vancouver, B.C.

March 19, 2019

Introduction

- [1] The sole issue for determination in this family dispute is the division of the parties' only significant asset, a 475 square foot rental condominium located at 1006-1255 Seymour Street, Vancouver, BC (the "Condo") that was purchased in the respondent's name during the parties' relationship.
- [2] The parties are in agreement that they are entitled to be divorced.
- [3] Other issues that are currently extant between the parties, such as parenting time and support, are the subject matter of a separate proceeding in the Provincial Court. The parties are in agreement that those issues will be dealt with in that other proceeding.
- [4] Unfortunately, counsel for the respondent seemed incapable of appreciating the fundamental concept of relevance and, despite numerous cautions given to her by the court, steadfastly presented, or attempted to present, evidence that had no bearing on the relatively simple issue to be decided. She called several witnesses whose evidence was riddled with hearsay, triviality, and irrelevance. That evidence was of no assistance to the court.

Background

- [5] The claimant is currently 39 years old. He was born in Iran. Prior to leaving Iran in 2011, he worked in various jobs, including as a guitar teacher, trainer, and at his father's supermarket. He testified that he earned the equivalence of approximately US\$5,000 per month.
- [6] The respondent is currently 44 years old. She immigrated to Canada in 1999. Prior to doing so, she had left her native country of Iran for Turkey as a political refugee.
- [7] In 2007, the respondent together with her then boyfriend, Imran Tanveer ("Tanveer"), opened a pizza restaurant on Commercial Drive in Vancouver, BC, utilizing a corporate entity called Urbangrain Pizza Inc. ("UG Pizza"). The respondent testified that the business was successful until a competitor opened a pizza restaurant next door. After that, UG Pizza's business began to decline.

- [8] The respondent testified that, in 2009, she wanted to purchase a condominium and went through the process of becoming qualified for mortgage financing.
- [9] The respondent testified that one of the customers in her pizza business was the claimant's sister. They became friends. The respondent learned of the claimant (who was living in Iran) through his sister and, in the spring or summer of 2009, the parties began to communicate via telephone, eventually speaking on the telephone almost every day. As the weeks and months progressed, the parties discussed the possibility of marriage. They decided to meet. They did so in March 2010 in Turkey, and stayed with one of the respondent's friends.
- [10] While the parties were together in Turkey, they decided to marry. The marriage took place on April 9, 2010, in Ankara, Turkey.
- [11] The claimant testified that the respondent told him her partner in UG Pizza was her ex-boyfriend and that she was having difficulties with him. He testified that, shortly after their marriage, the respondent asked him for \$28,000 to \$30,000 to enable her to buy Tanveer's interest in UG Pizza. He testified that he borrowed US\$20,000 from his father in Iran, and that the money was sent to him in cash via an airline to Istanbul, Turkey. He testified that he told the respondent the money was a loan from his father. The claimant testified that he has not repaid the loan to his father.
- [12] The claimant testified that he gave the money to the respondent with the expectation that she would use it "to build our lives" and that they would run the pizza business together and develop it.
- [13] The claimant's 80-year-old father, Morteza Ebrahimi ("Morteza"), testified that he was living in Tehran, Iran, at the time of the parties' marriage. He testified that the claimant asked him for money and that it is customary in his culture to financially assist family members. He testified that he withdrew 200 million Iranian rials from his bank account and used it to purchase US dollars from a foreign exchange broker. He then went to the Tehran airport and sent the money to the claimant in Turkey through a "travel agency". He could not recall the name of the travel agency he used.
- [14] The respondent agreed on cross-examination that she and the claimant had discussed her financial difficulties in respect of UG Pizza and whether the claimant was able to help her. However, she denied telling the claimant she had a partner in the company, that she had asked the claimant for money, that there had been any discussion with the claimant's father about money, and that the claimant gave her US\$20,000 or indeed any money while she was with him in Turkey.
- [15] Despite having been requested on several occasions by counsel for the claimant in the months leading up to the trial for production by her of her banking records for the year 2010, the respondent did not produce them. However, she admitted on cross-examination that she had located those records a few days before trial.

- [16] At approximately the end of April 2010, the parties left Turkey, with the respondent returning to Canada and the claimant returning to Iran. The respondent began the process of sponsoring the claimant's immigration to Canada.
- [17] In the fall of 2010, the respondent travelled to Iran and the parties celebrated their marriage there with a large wedding ceremony. The respondent stayed in Iran for approximately one month before returning to Canada. The respondent testified that both she and the claimant were given wedding gifts comprising gold coins. The claimant also received a watch.
- [18] On March 4, 2011, the respondent signed a loan agreement (the "March 4, 2011 loan agreement") with Tanveer that purported to memorialize her agreement to pay him a total \$26,000 for:
- a) \$10,000 provided by Tanveer to the respondent in "multiple installments" during the period March 1, 2010 to March 1, 2011 for the purpose of paying "bills and expenses"; and
 - b) \$16,000 for "business management services", which the respondent testified comprised marketing, updating menus and making pizza deliveries.
- [19] The respondent testified that she and Tanveer sold UG Pizza in March, 2011 for approximately \$98,000. The respondent testified that Tanveer received \$27,500 of this amount as a repayment of his "investment" in the company and that she continues to owe him the \$26,000 documented by the March 4, 2011 loan agreement. After other expenses were paid, including the respondent's living expenses, the respondent received \$10,000 from the sale. She testified that she planned to use these monies as part of a down payment towards the purchase of a condominium but decided to wait for the claimant's arrival in Canada before doing so.
- [20] Shortly thereafter, the respondent was hired by a company called Fresh Slice Pizza as a location manager.
- [21] On October 12, 2011, the claimant immigrated to Canada and commenced co-habitation with the respondent. The claimant testified that he brought US\$8,500 in cash with him from Iran, US\$8,000 of which he gave to the respondent because he had no banking arrangements in place at the time. He understood that the respondent would use the money towards their future life together. The respondent testified that the claimant arrived in Canada with only US\$500 which he subsequently used for a trip to Iran.
- [22] The claimant testified that he began working at various jobs, including with a heating/furnace company, a carpenter, and for a short time, in one of the locations operated by Fresh Slice Pizza. The respondent testified that he only worked for Fresh Slice Pizza for, at most, a few days.
- [23] The parties are in agreement that, shortly after the claimant's arrival in Canada, they began looking for a condominium to purchase as their matrimonial home.

- [24] On November 25, 2011, the respondent entered into a contract of purchase and sale in respect of the Condo. The Condo was being used as a rental property by the then owner. The purchase price was \$353,500. The purchase completed on December 8, 2011. The purchase monies, including various closing adjustments and fees, were comprised of:
- a) a deposit paid at the time of the contract:
\$12,000
 - b) mortgage financing ("Mortgage"):
\$344,754
 - c) balance paid on closing:
\$5,449
- [25] Both the Condo and the Mortgage were registered solely in the respondent's name.
- [26] The claimant testified that the US\$8,000 he gave to the respondent upon his arrival in Canada was a portion of the down payment for the purchase of the Condo. He testified that the Condo was registered solely in the name of the respondent because he had only been in Canada for a short time and had not yet established any banking or financial history.
- [27] The respondent testified that the \$12,000 deposit was raised using \$8,500 from the proceeds of sale of UG Pizza together with \$4,100 she received from her parents in Norway. Her banking records support that assertion.
- [28] However, the respondent's banking records also show that the monies used to fund the completion of the purchase of the Condo (\$5,449) came from a U.S. dollar account the respondent opened on October 22, 2011, shortly after the claimant's arrival in Canada, into which a deposit of US\$3,697 was made that same day. The respondent insisted that the source of this money was not the claimant but rather from customers of UG Pizza who had paid for their food using U.S. dollars.
- [29] The parties did not move into the Condo. The claimant testified that this was because at approximately the time of purchase of the Condo, the respondent's work location with Fresh Slice Pizza changed from Vancouver to Coquitlam. The respondent testified that the reason was that the claimant did not want to live in downtown Vancouver and would have been unhappy living in such a small apartment.
- [30] Regardless, the parties moved into an apartment in Coquitlam because it was a more convenient location for the respondent's work as she had been promoted to "training manager" for Fresh Slice Pizza. The Condo continued to be rented to the existing tenant.
- [31] The claimant testified that, until his separation from the respondent, he had a key to the Condo as well as the security code to the Condo's building.

- [32] The claimant testified that he began working as a painter in early 2012, an occupation he continues to be engaged in, although in the summer of 2016 he was diagnosed with a lung disorder and since then has focused primarily on preparing sites for painting by others. The respondent testified that the claimant did not start working as a painter until early 2013. Until then, he did odd jobs but was primarily focused on learning English at ESL classes. The respondent agreed on cross-examination that the claimant contributed as much as he could to the parties' living expenses.
- [33] On May 31, 2012, the respondent made a consumer proposal with a trustee in bankruptcy, primarily to deal with the ongoing debt of approximately \$84,000 remaining from UG Pizza. The proposal did not include her purported debt of \$26,000 to Tanveer under the March 4, 2011 loan agreement.
- [34] On October 1, 2012, the proposal was accepted and her indebtedness was reduced to approximately \$9,500 which she subsequently paid pursuant to a payment schedule that was arranged as part of the proposal.
- [35] The claimant's banking records show that, commencing February 2013, he transferred approximately \$1,000 per month to the respondent as a contribution towards the parties' living expenses. He testified that the balance of his income was used for other living expenses of the parties. The respondent acknowledged that these monies contributed to their living expenses.
- [36] In November 2012, the respondent was invoiced \$1,401.75 by a painting entity for painting the Condo. On September 8, 2016, she received an "estimate" in the amount of \$840 from the same entity for painting the Condo. The claimant testified that he had no knowledge of this painting arrangement and that he would have done the painting himself had he known. The respondent testified that the painting entity she used was in fact her cousin. On cross-examination, she was unable to provide any cogent confirmation that she had paid this entity for the painting services, stating that she believes she had paid "a little bit" and that she still owes money to her cousin.
- [37] In February 2013, a new tenant moved into the Condo. Prior to him doing so, the parties worked together to clean, paint, and repair the Condo.
- [38] On May 30, 2014, the parties' daughter, Nava, was born. The respondent was on maternity leave for one year. During that time, she decided to seek other employment when she returned to the workforce. In September 2015, she was hired by the Bank of Montreal as a customer sales representative, earning approximately \$1,400 per month.
- [39] On September 21, 2015, the claimant left the matrimonial home in Coquitlam and they have been separated ever since. The respondent could not afford to stay in the Coquitlam apartment. She and her daughter moved to a women's shelter for one-and-a-half months until she was able to find more affordable housing.

- [40] The claimant testified that, at the time of separation, there was \$700 in cash as well as some gold in the matrimonial home, all of which were kept by the respondent. The respondent testified that the claimant took with him all of his belongings when he left the apartment.
- [41] The claimant testified that the respondent did not give him any access to the Condo after the separation. On the advice of counsel, the claimant filed a certificate of pending litigation ("CPL") against title to the Condo.
- [42] In late October 2015, the respondent determined that she could not afford to keep the Condo. The rent it was generating did not cover the expenses. She decided to sell it. She did not inform the claimant of her decision. On October 26, 2015, she listed the Condo for sale for \$395,000. On November 2, 2015, she accepted an offer to purchase the Condo in the amount of \$411,000. The sale was scheduled to close on December 11, 2015 but the transaction did not complete because the claimant refused to remove the CPL.
- [43] The respondent testified that she was able to survive financially and continue to meet the monthly revenue shortfall on the Condo by borrowing money from friends and family.
- [44] The respondent testified that, since the date of separation, she has borrowed \$17,000 from her friend, Ilknour Agkilini. Ms. Agkilini confirmed that she lent that amount to the respondent. The purpose of the loan was, in large part, to enable the respondent to continue paying the shortfall between the expenses and revenues associated with the Condo.
- [45] The claimant testified that the respondent never requested that he provide financial assistance regarding the Condo's expenses or repairs. He agreed on cross-examination that, since the parties separated, he did not contribute to any of the expenses associated with the Condo.
- [46] The respondent testified that the balance of the Mortgage owing as of December 31, 2015 was \$315,644 and as of the date of trial was \$287,390.
- [47] The respondent testified that, in addition to the Mortgage debt, she is indebted as follows:
- a) an unspecified amount owed to Tanveer;
 - b) \$17,000 to Ms. Agkilini; and
 - c) approximately \$10,000 in credit card debt.
- [48] On May 2, 2016, the respondent paid \$374.10 to Wise Appliances, a company she retained to repair one of the Condo's appliances. The respondent testified that, since October 2018, she has received \$1,900 per month in rent for the Condo which exceeds the Condo's monthly expenses. The surplus of approximately \$290 per month contributes to her living expenses. She no longer wishes to sell the Condo.

Credibility and Reliability

- [49] The claimant's father, Morteza, gave his evidence through a Farsi interpreter. I found him to be a delightful witness who presented as honest, sincere, and credible. I have no difficulty accepting his evidence that he provided the claimant with US\$20,000.
- [50] Neither the claimant nor the respondent was a particularly credible witness. At times, the claimant struggled with the questions put to him and had difficulty deciphering dates and numbers. However, this was partly because the questions put to him were often confusing and jumbled and because the claimant's proficiency in the English language is, at best, rudimentary.
- [51] The respondent was in many respects more believable than was the claimant. However, certain aspects of her testimony, such as the source of the U.S. dollars used to complete the purchase of the Condo and the outstanding \$26,000 debt to Tanveer, strained credulity. It is telling that that purported debt is now more than six years old, has not been paid, and is now statute barred. Moreover, it did not appear as a debt in the respondent's first Form F8 Financial Statement sworn in the Provincial Court proceeding on November 24, 2015.
- [52] It is equally telling that the March 4, 2011 loan agreement was signed shortly before the sale of UG Pizza's business. It was plainly created to document Tanveer's contribution to the business at the time of sale. A short time later, after receiving the proceeds of sale, the respondent paid Tanveer \$27,500 from the sale proceeds.
- [53] At the completion of her evidence, I raised with the respondent two emails that the claimant had sent her in November 2016, which mentioned his assertion that he had given her \$20,000 when they were married in Turkey. The respondent acknowledged receipt of the emails and stated she did not respond to them because she considered them to be untruthful and an attempt by the claimant to assist his case at trial. Although the emails were plainly sent during the litigation, they were in the context of the claimant attempting to resolve the litigation by a sale of the Condo with him receiving "just the money I gave you in Turkey" and the respondent keeping the balance of any added value. There was no suggestion that these emails were without prejudice and their admissibility in evidence was not contested.
- [54] There is no need to comment on the credibility of the various other witnesses who were called by the respondent because their respective evidence was of little or no relevance to the issue to be determined.

Analysis

Is the Condo Family Property or Excluded Property?

[55] The respondent maintains that the Condo constitutes excluded property under s. 85(1)(g) of the Family Law Act, S.B.C. 2011, c. 25 [FLA] because the monies used to purchase the Condo can be traced back to the monies she received from the sale of UG Pizza, which she had acquired before her relationship with the claimant began. Section 85(1) provides, in relevant part, as follows:

85(1) The following is excluded from family property:

- (a) property acquired by a spouse before the relationship between the spouses began;
- (g) property derived from property or the disposition of property referred to in any of paragraphs (a) to (f).

[56] The respondent has the onus of establishing on the balance of probabilities the basis for and the extent to which the Condo is excluded property: FLA, s. 85(2); *Shih v. Shih*, 2017 BCCA 37 at paras. 42-44.

[57] I am not satisfied that the respondent has discharged this onus. Although the evidence shows that \$8,500 from her bank account was used to fund a portion of the down payment for the purchase of the Condo, those monies were from the sale of UG Pizza which occurred after the parties were married. There is no evidence regarding how much, if any, of that amount was derived from an investment in UG Pizza prior to the parties' marriage on April 9, 2010 or what the value of that entity was at the time of the marriage.

[58] The balance of the purchase monies for the Condo came from monies gifted to the respondent by her family during the parties' marriage as well as from the U.S. dollar account she opened on October 22, 2011. With respect to the former, the respondent led no evidence that the money she received from her parents was a gift to her alone rather than to the parties together to enable them to purchase the Condo. She could easily have done so. With respect to the latter, I find that it is more probable than not that those funds were provided to the respondent by the claimant upon his arrival in Canada.

[59] The respondent has failed to demonstrate that any of the monies used to fund the purchase of the Condo were derived from the disposition of property acquired before the relationship began.

[60] Accordingly, I find that the Condo is family property.

[61] In this case, there is no realistic prospect for either of the parties purchasing the other's interest in the Condo. The respondent readily acknowledged when questioned by the court that, if the Condo was found to be family property, she would be unable to purchase the claimant's interest. Hence, the only practical solution is that the Condo be sold for its fair market value.

[62] Accordingly, I am ordering that, as soon as practicable, the Condo will be listed for sale through a real estate agent of the respondent's choice at a price determined by that agent, acting reasonably, to be appropriate in order to achieve the highest reasonably achievable sale price in the current market.

Value of the Condo and Valuation Date

[63] Section 87 of the FLA provides, in relevant part, as follows:

87 Unless an agreement or order provides otherwise

- (a) the value of family property must be based on its fair market value, and
 - (b) the value of family property must be determined as of the date
- (ii) of the hearing before the court respecting the division of property

[64] The date of the hearing is the presumptive valuation date for family property: *Kumagai v. Campbell Estate*, 2018 BCCA 24 at para. 75. There must be compelling evidence justifying a departure from this valuation date, particularly where, as here, the increase in the value of family property is brought about by market forces and not as a result of the direct effort of one of the parties: *E.H.H. v. C.L.M.*, 2017 BCSC 1299 at para. 96.

[65] The court was provided with the following appraisals of the Condo:

- a) as of October 1, 2015:

\$400,000

- b) as of September 25, 2018:

\$590,000

[66] The respondent submits that the value of the Condo as at the date of separation (September 21, 2015) is appropriate in this case. She relies upon the decisions of this court, including *A.J.E. v. T.B.W.*, 2017 BCSC 1657, *Dennis v. Gill*, 2018 BCSC 1533, and *E.H.H.* in support of that assertion. However, in each of those cases, compelling evidence was presented justifying the use of the date of separation.

[67] Here, the respondent failed to provide any compelling reason why a departure from the date of the hearing being the presumptive valuation date is justified other than that she paid all of the expenses in respect of the Condo after the date of separation.

[68] While those circumstances may warrant a reapportionment or unequal division of family property under s. 95 of the FLA, they do not justify a departure from the presumptive date for valuation purposes: *Kumagai* at para. 76.

- [69] The thrust of the respondent's argument is that the claimant should not benefit from "sitting idly by and doing nothing while the respondent dealt with all of the expenses" associated with the Condo.
- [70] The evidence is clear that, but for the action of the claimant in thwarting the sale of the Condo in December 2015, the parties would have been litigating over the division of more than \$175,000 less than they now are. It was only through the actions of the claimant that the parties are in a position to benefit from the increase in the value of the Condo between the date of separation and the date of the trial, an increase that is entirely attributable to passive, market-based forces.
- [71] I do not accept the respondent's submission that a valuation based upon the date of separation is justified. Accordingly, the date that will be used for the valuation of the Condo is the date of trial.

Is the Respondent entitled to an Unequal Division of Family Property?

- [72] The claimant seeks a one-half interest in the fair market value of the Condo, pursuant to s. 81(b) of the FLA. Section 81(b) of the FLA provides, in relevant part, as follows:
81. Subject to an agreement or order that provides otherwise
- (b) on separation, each spouse has a right to an undivided half interest in all family property as a tenant in common, and is equally responsible for family debt.
- [73] In enacting s. 81, the Legislature intended to limit the circumstances in which a departure from equal division could be justified because of unequal contributions to acquisition, preservation, maintenance or improvement. The presumptive entitlement exists independent of the parties' respective contribution to the post-separation increase in value: *Jaszczewska v. Kostanski*, 2016 BCCA 286 at paras. 38-39.
- [74] Nevertheless, the respondent claims that there should be an unequal division of family property in respect of the Condo, pursuant to s. 95(1) of the FLA. Section 95 of the FLA provides as follows:

Unequal division by order

- 95 (1) The Supreme Court may order an unequal division of family property or family debt, or both, if it would be significantly unfair to
- (a) equally divide family property or family debt, or both, or
- (b) divide family property as required under Part 6 [Pension Division].
- (2) For the purposes of subsection (1), the Supreme Court may consider one or more of the following:
- (a) the duration of the relationship between the spouses;

- (b) the terms of any agreement between the spouses, other than an agreement described in section 93 (1) [setting aside agreements respecting property division];
 - (c) a spouse's contribution to the career or career potential of the other spouse;
 - (d) whether family debt was incurred in the normal course of the relationship between the spouses;
 - (e) if the amount of family debt exceeds the value of family property, the ability of each spouse to pay a share of the family debt;
 - (f) whether a spouse, after the date of separation, caused a significant decrease or increase in the value of family property or family debt beyond market trends;
 - (g) the fact that a spouse, other than a spouse acting in good faith,
 - (i) substantially reduced the value of family property, or
 - (ii) disposed of, transferred or converted property that is or would have been family property, or exchanged property that is or would have been family property into another form, causing the other spouse's interest in the property or family property to be defeated or adversely affected;
 - (h) a tax liability that may be incurred by a spouse as a result of a transfer or sale of property or as a result of an order;
 - (i) (i) any other factor, other than the consideration referred to in subsection (3), that may lead to significant unfairness.
- (3) The Supreme Court may consider also the extent to which the financial means and earning capacity of a spouse have been affected by the responsibilities and other circumstances of the relationship between the spouses if, on making a determination respecting spousal support, the objectives of spousal support under section 161 [objectives of spousal support] have not been met.

[Emphasis added.]

[75] The test of "significant unfairness" imposes a more stringent threshold than the mere "unfairness" test under the former Family Relations Act, R.S.B.C. 1996, c. 128. "Significant" means "extensive or important enough to merit attentions" and refers to something that is "weighty, meaningful or compelling". To depart from the general rule of equal division, there must be persuasive reasons shown having regard to the factors set out in s. 95(2): Jaszczewska at para. 41.

[76] Counsel for the respondent submits that the factors set out in s. 95(2)(a), (c) and (f) of the FLA apply in this case. She argues that, even though the parties' marital relationship was five-and-a-half years, the claimant lived in Iran for the first 18 months of their marriage. She submits that the respondent contributed to the claimant's career because she supported him for over a year after he arrived in Canada, allowing him to learn English and to become a

painter. Finally, she submits that the respondent "caused" the increase in the value of the Condo because she paid all of the expenses associated with it after the parties' separated.

- [77] None of these arguments are persuasive. The duration of the parties' relationship was five-and-a-half years, which was not short. Even though they did not live together while the claimant waited to immigrate to Canada, the evidence is that they spoke virtually daily on the telephone and spent one month together in Iran at the time of their wedding celebration. Consideration of whether a spouse contributed to the career or career potential of the other spouse requires more than merely one spouse supporting the other. In any event, there is no evidentiary support for the proposition that the claimant gained more from the relationship than he contributed. Lastly, the respondent did not cause the increase in the value of the Condo--market forces did.
- [78] In my view, none of the factors set out in s. 95(2)(a)-(h) apply in this case. However, the fact that, after the parties separated, the respondent incurred all of the expenses associated with the Condo and had to incur debt in order to do so is a factor that would result in significant unfairness if the equity in the Condo was equally divided.
- [79] I am making the following additional orders. Upon completion of the sale of the Condo as contemplated by the order I have made above, the net proceeds of sale (after payment of the Mortgage, property taxes, fees, commissions and other costs incurred in respect of the sale) will be distributed as follows.
- [80] The respondent will be reimbursed for the claimant's share (50%) of the expenses she incurred in respect of the Condo after the date of separation as well as all ongoing expenses she incurs until the completion of the sale of the Condo. Specifically, the respondent is entitled to be paid from the net proceeds of sale of the Condo 50% of the aggregate of:
- i. all payments she made under the Mortgage;
 - ii. all insurance payments;
 - iii. all property tax payments;
 - iv. \$374.10 she paid to Wise Appliances on May 2, 2016;
 - v. \$500 in respect of the painting of the Condo by the respondent's cousin's entity;
- Less:
- vi. the total rental income she received;
- [81] The balance of the sale proceeds will be divided equally between the parties.
- Divorce
- [82] Each of the parties seeks a divorce from the other.

- [83] The parties have lived separate and apart for more than one year and were living separate and apart at the commencement of this proceeding. There is no possibility of reconciliation and no collusion with respect to this proceeding.
- [84] I am satisfied by the evidence of the respondent that the requirements of the Divorce Act, R.S.C. 1985, c. 3 (2nd Supp.) have been met. A divorce is granted effective 31 days after this pronouncement.

Costs

- [85] I am inclined to order that each party will bear his or her own costs. However, if counsel wishes to make submissions on costs, they may do so by arranging a hearing date through Supreme Court Scheduling.

"G.C. Weatherill J."

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