
CANADA / JUDGMENT

Fraser v. Abma

2012 BCSC 1429

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Supreme Court of British Columbia

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2012 BCSC 1429 Fraser v. Abma

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Fraser v. Abma,

2012 BCSC 1429

Date: 20120927

Docket: 137288

Registry: New Westminster

Between:

Danielle Fraser and Jason Collins

Plaintiffs

And

Sidney Abma and Elizabeth Abma

Defendants

Before: The Honourable Madam Justice Ker

Reasons for Judgment

Counsel for Plaintiffs:

G. A. Pyper

Counsel for Defendants:

D. A. T. Moseley

Place and Date of Hearing:

New Westminster, B.C.

June 1, 2012

Place and Date of Judgment:

New Westminster, B.C.

September 27, 2012

Introduction

[1] This matter involves a commercial tenancy dispute between the plaintiffs, Danielle Fraser and Jason Collins, as tenants and the defendants, Sidney and Elizabeth Abma, as landlords in respect of an acreage in Langley, B.C. The defendants are the registered owners of a property with a civic address of 22015-40th Avenue in Langley, B.C. (the "Property").

[2] Both parties have brought competing applications for judgment on a summary trial basis pursuant to Rule 9-7 of the Supreme Court Civil Rules (the "Rules of Court") seeking a determination of the following:

(i) the nature of the tenancy, i.e. whether it is a five year lease agreement as the plaintiffs allege or whether it is simply a month to month tenancy as the defendants allege;

(ii) whether the defendants' notice to vacate (the "eviction notice") served on the plaintiffs on November 3, 2011, should be enforced as the defendants seek or quashed as the plaintiffs seek; and,

(iii) whether the plaintiffs should be compensated for significant improvements made to the Property during the course of the tenancy as the plaintiffs seek or whether the improvements were unauthorized and therefore not something for which the defendants are liable as they maintain in their application.

Background

[3] The Property in issue is approximately 8.39 acres in size and consists of a number of buildings, as well as a variety of fields, pastures and a pond. The buildings include the following:

- a. a cottage;
- b. the main house;
- c. a barn;
- d. a garage;
- e. a shed; and

- f. outbuildings in the fields.
- [4] For approximately 20 years the defendants have maintained the Property as a farm status classification for taxation purposes. The defendants have not lived on the Property for about 14 ½ years and now reside in the United States. For the past 13 years the main house on the Property has been rented to tenants.
- [5] Since April 1995, Mrs. Abma's parents, Burger and Trinika Valk (the "Valks"), have lived in the cottage on the Property and have had use of the cottage, the barn and the shed since that time. The defendants have agreed to permit the Valks to live on the Property for their lifetime, until they choose to move off the Property or until the Property is sold. The Valks are responsible for maintaining the lawns around the cottage, the pond and the main house. Until the summer of 2009 they were also responsible for the maintenance of the pasture area.
- [6] In the spring of 2009 the defendants wanted to rent out the main house on the Property and had a property management company advertise that building for a monthly rent of \$2,500 plus utilities.
- [7] In May 2009 the plaintiff, Danielle Fraser, responded to the advertisement. Ms. Fraser advised the defendants that she needed to lease a property immediately as her previous tenancy at another location had terminated. Ms. Fraser explained to the defendants that she was looking for a long-term lease for the purpose of operating her equestrian business.
- [8] The plaintiff needed to rent more than the main house for this purpose and so the defendants agreed to also rent out other parts of the Property including the main barn, the pasture areas and the outbuildings in the fields for an additional \$1,000 a month for a total rent of \$3,500 per month plus utilities.
- [9] At some point in the initial verbal discussions Ms. Fraser indicated an interest in purchasing the Property through a lease with an option to purchase agreement. The defendants did not outright reject the possibility but indicated that they had intended for the Valks to continue to live in the cottage on the Property for a number of years. Additionally, the defendants required the plaintiff to provide satisfactory proof that she would be able to finance the purchase.
- [10] In an e-mail from Mr. Abma to Ms. Fraser dated May 22, 2009, the rent for the Property including the main barn and pasture area was described as \$3,500 per month. The parties disagree as to what aspects of the Property were included in their subsequent oral agreement. Ms. Fraser maintains that the oral agreement included all aspects of the Property save the cottage where the Valks reside. The defendants maintain the oral agreement did not include all the lands and buildings on the Property but only the main house, the main barn, the pastures and the outbuildings in the fields but not the garage and another shed.

- [11] It is clear from this e-mail that the parties were initially contemplating a rental agreement in order to get Ms. Fraser onto the Property immediately and that thereafter they would work out the terms of the lease or possibly a lease with an option to purchase the Property. The May 22, 2009 e-mail makes it equally clear that the parties were contemplating a long-term lease of approximately five years duration. After this e-mail, the parties continued to have verbal discussions about Ms. Fraser renting the Property and the possibility of an option to purchase it.
- [12] It is apparent that by May 22, 2009 the parties were discussing the possibility of some form of long-term lease with an option to purchase agreement but were unable to come to terms on that subject.
- [13] On May 27, 2009, Ms. Fraser e-mailed Mr. Abma to discuss the proposed terms of the lease with option to purchase the Property, the terms of which included a number of figures on price, interest and payment schedules. Ms. Fraser outlined why it was not feasible for her to agree to the proposed figures. Ms. Fraser also indicated that she was planning on moving onto the Property on June 1, 2009, and would be starting to make improvements to the Property in order to run her equestrian business but stated, "since we haven't come to an agreement yet I'm just not sure what to do." She also indicated that she was looking at another facility that was already operable for her equestrian business in terms of having stalls and riding rings but also acknowledged it would not be a rent to own facility and so she was hesitant to commit to that option.
- [14] From the tenor of these e-mails and the next e-mail of May 29, 2009, it is apparent that there were further verbal discussions about the nature of the agreement the parties were endeavouring to reach on the rental of the Property.
- [15] On May 29, 2009, Mr. Abma e-mailed Ms. Fraser. Among other things he indicated in this e-mail that he was looking for a long-term tenant but was not prepared to subsidize the rental because of his financial commitments. He concluded this e-mail with the following:

The only other option is renting. I will give you a long term available rental with no increases to your rent for at least 5 years. All that is required is that you meet your commitments.

The commitments referred to in this e-mail do not appear to be specified anywhere else in the materials.

- [16] Although the parties had not reached any sort of tenancy agreement by the end of May 2009, the defendants permitted Ms. Fraser to move onto the Property on June 1, 2009. At this time, the parties had yet to conclude any sort of verbal or written agreement as to the nature and duration of her tenancy or whether it would be a lease with an option to purchase the Property. It is undisputed that the parties intended to continue on in their negotiations as to the nature and duration of the agreement they were endeavouring to finalize.

- [17] It is clear that when Ms. Fraser moved on to the Property she was required to pay the defendants \$3,500 per month rent for use of at least the main house, the main barn, the outbuildings in the fields and the pasture areas.
- [18] Some sort of verbal agreement was entered into on or about July 1, 2009. The terms of the agreement included that the plaintiff would pay rent in the amount of \$3,500 per month plus utilities (the "Rent"). However, on the basis of the materials filed on these applications, the parties are not ad idem as to the remaining terms of the lease agreement including the duration of the lease (five years or simply month to month); the lands and buildings included in the agreement (all the property except the cottage or only some of the property and outbuildings but not the garage or shed); the uses that the plaintiff could make of the Property (any revenue generating business venture or simply an equestrian business) and other terms such as improvements to the Property.
- [19] After July 1, 2009, discussions between the parties continued as to the nature of the lease agreement and whether the plaintiff would pursue a lease agreement with an option to purchase. To advance her negotiations on what she felt was an equitable amount for a lease with an option to purchase the Property, Ms. Fraser incurred the expense of an appraisal of the Property dated July 3, 2009.
- [20] Even into October 2009 the parties were exchanging draft agreements of a lease with option to purchase but neither side signed the other side's proposed agreement as they were unable to agree on essential terms including price, interest, payment schedules and related matters.
- [21] By October 29, 2009, both Ms. Fraser as Lessee and Mr. Abma as Lessor completed and executed a Farm Classification Lease Form (the "Form") for taxation purposes. The Form indicates the parties have entered into a lease of five years duration with an option to renew, with a lease fee of \$3,500 a month for use of the land, farm buildings and the house. After this Form was completed the parties continued to verbally discuss the lease with option to purchase agreement but failed to complete any written agreement as to that aspect of their discussions.
- [22] Indeed, in December 2009, discussions about the nature of the rental agreement were still ongoing, months after Ms. Fraser had moved onto the Property and started making improvements to the barn and pasture areas. Although discussions went back and forth between the parties over the months as to a lease with an option to purchase the Property, Ms. Fraser was never able to provide any proof that she had the means to finance the purchase, nor did she respond to the defendants' request for written details as to the proposed terms of the agreement. In the end, no such agreement was ever reached.
- [23] When Ms. Fraser moved onto the Property, some improvements and changes needed to be made to the barn, outbuildings and fields on the Property. The plaintiff was under the impression that any improvements she made would go towards a \$30,000 non-refundable deposit on the down payment on the hoped for lease with option to purchase the Property.

The defendants understood that any improvements made to the barn and outfields were at the plaintiff's own expense in order to facilitate the operation of her equestrian business and that any improvements required the prior authorization of the defendants. Indeed, the defendants deny they ever agreed that the \$30,000 in improvements would go towards a non-refundable deposit.

- [24] Over time the relations between the parties deteriorated and difficulties developed between Ms. Fraser and the Valks. On September 14, 2011, the plaintiffs filed a Notice of Civil Claim against the defendants seeking, inter alia, specific performance of a drafted agreement that purported to reduce the terms of the verbal agreement to writing; the Notice described the agreement as a lease with an option to purchase. In the alternative, the plaintiff sought general and special damages for breach of contract and other relief. The plaintiff also filed a certificate of pending litigation (the "CPL") on the Property on that same date.
- [25] The defendants filed a Response to Civil Claim on November 1, 2011 that denied that any lease agreement with an option to purchase had been reached and alleged that any improvements made to the property by the plaintiff, apart from painting the interior of the main house, were made without their prior authorization and without the requisite permits required by the municipality.
- [26] By way of letter dated November 3, 2011, the defendants provided written notice to the plaintiff terminating her tenancy and requiring her to vacate the Property on or before March 31, 2012 (the "eviction notice").
- [27] At about this same time, in early November 2011, the plaintiff brought an application seeking a declaration of peaceful enjoyment of the premises in relation to the dispute as to the Valks' legitimate use of parts of the Property. The chambers application was heard and dismissed by Mr. Justice Harvey on November 10, 2011.
- [28] On February 21, 2012, the plaintiffs filed an application seeking an Order for peaceful possession and enjoyment of the leased premises and an Order quashing the November 3, 2011 eviction notice issued by the defendants. In the Notice of Application, the plaintiff also sought a declaration that the parties had reached an agreement and entered into a lease with an option to purchase.
- [29] On February 23, 2012, the defendants agreed to extend the time to vacate the Property under the eviction notice from March 31, 2012 to June 30, 2012.
- [30] On April 24, 2012, the defendants filed an application seeking, among other things:
- (i) a declaration that there is no agreement in the form of a lease with an option to purchase;
 - (ii) a declaration that the eviction notice requiring the plaintiff to vacate the Property is valid and subsisting;

(iii) an order for peaceful possession of the Property and that the plaintiffs peacefully vacate the Property;

(iv) cancellation of the CPL filed on September 14, 2011 and dismissal of the remainder of the plaintiffs' action.

[31] On May 8, 2012, counsel for the plaintiffs confirmed to counsel for the defendants that the plaintiffs were no longer pursuing their claim that they had a lease agreement with an option to purchase the Property.

[32] At the hearing of both applications, the defendants' eviction notice and demand that the plaintiffs vacate the Property were stayed pending the determination of the two competing applications for summary judgment.

Issues and Positions of Parties

[33] A preliminary or threshold issue in these applications is whether they are suitable for disposition by way of the summary trial procedure. Both parties argue that, despite the apparent conflict in aspects of the affidavits, the matter is suitable for disposition under the summary trial procedure and urge the Court to make such a finding.

[34] If the preliminary issue of suitability for disposition under the summary trial procedure is resolved in favour of proceeding in that fashion then three substantive issues arise on the applications.

[35] The first substantive issue between the parties on these applications are the nature and duration of the oral rental or lease agreement and what aspects of the Property are included in any such agreement.

[36] The plaintiff deposes that there was a five year lease agreement with an option to renew for a further five year term. She also deposes that she was permitted to use the entirety of the property save for a cottage used by the Valks.

[37] The defendants depose that the plaintiff's tenancy started out as a month to month tenancy that never evolved. They acknowledge an intention of trying to reach an agreement first as to a lease with an option to purchase and then a simply a long-term rental agreement wherein they would not raise the rent for 5 years.

[38] Thus, from the defendant's perspective, from the point of the plaintiffs moving onto the Property up until late 2009, the parties attempted to negotiate a long-term lease but were unable to agree on the terms and nothing was reduced to writing. The defendants argue that because they were never able to come to any agreement with the plaintiffs as to the final terms of the lease it remains a month to month tenancy.

[39] The second substantive issue is whether the eviction notice issued by defendants to the plaintiffs on November 3, 2011 should be quashed or upheld.

- [40] A third substantive issue relates to the improvements the plaintiffs have made to the property as a result of Ms. Fraser's tenancy and whether she should be compensated for the improvements as she claims. Ms. Fraser deposes that the various improvements she made to the Property, including the installation of a suite in the main house and an outdoor riding ring (with an estimated value of \$25,000), were known to the defendants and not objected to by them and thus were implicitly accepted and approved.
- [41] The defendants assert the improvements, including the installation of the outdoor riding ring, the self contained two bedroom suite in the main house and other alterations to the Property were either to be done at the plaintiffs' expense in order to facilitate her equestrian business (the outdoor riding ring) or done without prior authorization (the suite) and therefore contrary to the implied terms of the oral lease agreement.

Discussion

- [42] This matter has come on for hearing as a summary trial with applications made by both the plaintiffs and the defendants. At the outset of these applications, upon a brief review of the materials filed including lengthy, and in many key places, conflicting affidavit materials, I enquired of counsel as to the amenability of these applications to determination by way of the summary trial procedure, insofar as I may be unlikely to resolve certain critical factual issues on the basis of the conflicting affidavits. Counsel urged that the applications were amendable to disposition under the summary trial procedure arguing that the documentary evidence (in particular the e-mail exchanges), the unexecuted draft lease to purchase agreements, and the signed Farm Classification Lease Form, which were all included as exhibits in the affidavit materials, would assist the Court in finding the necessary facts to give judgment.
- [43] Both the plaintiff and the defendants bring their applications pursuant to Rule 9-7 of the Rules of Court. Thus the first task is to determine if the matter is suitable for disposition by way of summary trial: *Charest v. Poch*, 2011 BCSC 1165 [Charest] at para. 49; *Leisure Aquatics Inc. v. Lax Kw'alaams Band*, 2012 BCSC 1202 at para. 22; [Leisure Aquatics]; *Lott v. Fulford*, 2012 BCSC 1189 at para. 22 [Lott].
- [44] Summary trials are governed by Rule 9-7, which provides, in relevant part:
- (11) On an application heard before or at the same time as the hearing of a summary trial application, the court may
 - (a) adjourn the summary trial application, or
 - (b) dismiss the summary trial application on the ground that
 - (i) the issues raised by the summary trial application are not suitable for disposition under this rule, or
 - (ii) the summary trial application will not assist the efficient resolution of the proceeding.

- (15) On the hearing of a summary trial application, the court may
- (a) grant judgment in favour of any party, either on an issue or generally, unless
 - (i) the court is unable, on the whole of the evidence before the court on the application, to find the facts necessary to decide the issues of fact or law, or
 - (ii) the court is of the opinion that it would be unjust to decide the issues on the application
- [45] In *Charest*, Mr. Justice Melnick reviewed the principles that govern the determination of whether a matter is suitable for disposition by means of summary trial, writing as follows at paras. 51-53:
- [51] Madam Justice Ker in *McVeigh v. Boeriu*, 2011 BCSC 400, summarized the procedure for determining whether a matter is suitable to be tried summarily at paras. 42-44:
- [42] Whether a matter is suitable for disposition by means of the summary trial procedure has generated a significant amount of jurisprudence over the years. The proper approach on a summary trial under the former Rule 18A was set out in *Inspiration Management Ltd. v. McDermid St. Lawrence Ltd.* (1989), 36 B.C.L.R. (2d) 202 (C.A.) [*Inspiration Management*]. This test remains the same under the new Rule 9-7 of the Supreme Court Civil Rules, and whether a matter is suitable for disposition can be distilled to consideration of two critical factors:
- i. Are there sufficient facts before the Court in which to make the necessary findings of fact?
 - ii. Is it unjust to decide the case on a summary trial application?
- [43] Where the court is able to find the facts necessary to decide the issues before it, and it is not otherwise unjust to decide the matter summarily, the court should give judgment. At para. 7 of his decision in *Mariotto v. Waterman* (1996), 32 B.C.L.R. (3d) 125 (C.A.), McEachern C.J.B.C. stated the following with respect to Rule 18A applications: "Where possible it is always to be hoped that judges will give judgment and I repeat that admonition here."
- [44] Rule 18A(11) of the former Supreme Court Rules provided that judgment may be granted generally or on an issue unless the Court is unable to find the necessary facts to decide the issues of fact or law or it would be unjust to decide the issues summarily. Rule 9-7(15) contains identical language to the former Rule 18A(11).
- [52] *Inspiration Management Ltd.*, the Court of Appeal offered additional factors for consideration at 214-215:

In deciding whether it will be unjust to give judgment the chambers judge is entitled to consider, inter alia, the amount involved, the complexity of the matter, its urgency, any prejudice likely to arise by reason of delay, the cost of taking the case forward to a conventional trial in relation to the amount involved, the course of the proceedings and any other matters which arise for consideration on this important question.

...

In deciding whether the case is an appropriate one for judgment under R. 18A [now Rule 9-7] the chambers judge will always give full consideration to all of the evidence which counsel place before him but he will also consider whether the evidence is sufficient for adjudication. For example, the absence of an affidavit from a principal player in the piece, unless its absence is adequately explained, may cause the judge to conclude either that he cannot find the facts necessary to decide the issues, or that it would be unjust to do so. But even then, as the process is adversarial, the judge may be able fairly and justly to find the facts necessary to decide the issue.

[53] The primary concern is achieving a just result. As stated by Madam Justice Russell in *Boss Power Corp. v. British Columbia*, 2010 BCSC 1648 at para. 49: "[w]here a summary trial can achieve the ends of justice and save the parties either or both time and money, it is to be preferred."

[46] And, as Williams J. succinctly noted more recently in *Leisure Aquatics* at para. 24:

[24] The parameters with respect to the summary trial procedure are well-established. This is a legitimate mode of trial in appropriate circumstances. Where the court is able to make the necessary findings of fact on the material filed, even if there are conflicts in the evidence, that should be done. However, where the necessary findings cannot be made because of quite fundamental conflicts that cannot be fairly resolved, the court may conclude that the matter is not suitable for disposition under this rule.

[47] In my view, the present case is not suitable for determination by means of the summary trial procedure. In this case, issues of credibility arise on every essential element of the nature of the oral agreement between the parties that cannot be resolved without preferring the evidence of one party over the other. The totality of the evidence, including the limited and partial documentary evidence in the form of e-mails and other documents, does not assist in determining what an objective and reasonable bystander would conclude as to the nature of the oral agreement the parties entered into for the rental of the Property. The evidence conflicts on every essential point of the oral agreement including the duration of the tenancy, what parts of the Property were to be included or excluded from the rental, what improvements were permissible, and the uses the plaintiffs could make of the Property including whether sub-tenants were permitted.

[48] The evidence filed on these applications includes two comprehensive affidavits filed by Ms. Fraser, the main plaintiff in this case, as well as two other shorter affidavits, and two comprehensive affidavits filed by Mr. Abma, one of the defendants in this case. Included as exhibits to the various affidavits are some of the e-mails between the parties as well as numerous photographs of the Property in issue before and after Ms. Fraser moved onto the Property.

- [49] In *Charest*, at paras. 54-67, Melnick J. reviewed the principles that govern the determination of whether a matter is suitable for disposition by means of summary trial where the affidavit materials conflict. It is clear from the jurisprudence that the mere fact that the affidavits conflict is not an automatic bar to proceeding under the summary trial provisions: *Charest* at paras 56-59; *Leisure Aquatics* at para. 24.
- [50] The question instead is whether the conflicts in the evidence relate to essential issues that cannot be resolved on the evidence. Here, one of the essential issue, as I understand it, is whether the parties reached an oral agreement as to a five year lease of the property by the plaintiffs or whether the protracted negotiations between the parties failed to achieve any lease agreement such that there is only a tenancy at will or a month to month tenancy.
- [51] Where there is a head on conflict in the evidence that goes directly to the foundation of the matter, the court must proceed with caution. This is especially so where issues of credibility arise, as they clearly do in this case, that go directly to the foundation of either the plaintiffs' or defendants' case, the resolution of which requires findings of credibility to be made or preferring one view of the evidence to the other: *Charest* at paras. 54-61; *Lott* at para. 24.
- [52] In *Mayer v. Mayer*, 2012 BCCA 77 at paras. 82-83, the Court of Appeal noted that where issues of credibility arise it may well be unjust to proceed under the summary trial procedure without permitting a party to develop their case fully through examinations for discovery, cross-examination of the parties on their affidavits or through a conventional trial if necessary.
- [53] Although there was a conflict on the affidavit materials in *Charest*, Melnick J. concluded that there was also documentary material, including discovery evidence, that permitted the court to conclude that when all the materials were considered in totality, the evidentiary conflicts could be addressed and the matter resolved by the summary trial procedure in a manner other than by preferring one view over the other.
- [54] In the case at bar, there have been no examinations for discovery conducted. In addition to the affidavits filed by the plaintiff Fraser and the defendants, there is some documentary evidence attached to the affidavits outlining part of the negotiations and exchanges between the parties as to the discussions about the nature of the terms of the plaintiff Fraser's rental of the defendants' Property.
- [55] Regrettably, even with the plaintiffs' withdrawal of the assertion that the parties entered into a lease agreement that contained an option to purchase, the parties remain diametrically opposed on all other aspects of the alleged oral agreement. The documentary evidence, including some e-mails between the parties, outlines an intention to at least try and have a long-term tenancy but not even that is clearly discernible on an objective basis in the absence of credibility findings and preferring one party's assertion to that of the other's.

- [56] As an example, there is the critical issue of the alleged length of the tenancy or lease agreement. Ms. Fraser deposes that there was an oral agreement for a five year lease with an option to renew. Mr. Abma disputes this and deposes that while they discussed a longer tenancy the parties never reached any agreement on that point.
- [57] An examination of the e-mails and the Farm Classification Lease Form, completed in October 2009 during part of the ongoing negotiations, is of little assistance in making the necessary determination as to the nature and duration of the rental agreement given the ongoing and conflicting discussions on what the parties were endeavouring to achieve. The documents provided appear to be only a partial but incomplete encapsulation of the discussions. The words contained in the documents, coupled with the affidavits are, in my view, capable of being construed in a way that supports either position.
- [58] The difficulty with the documents on the nature and duration of the agreement is but one example of the conflict, albeit a significant one. However, it serves to illustrate the difficulties that the applications present.
- [59] There are other matters raised that are not amenable to being properly understood in the context of the limited evidentiary record before me. For example, whether the significant improvements to the Property made by the plaintiffs as well as the uses the plaintiffs could make of the Property (including whether subtenants were permitted) were contemplated by the oral agreement or acquiesced in by the defendants.
- [60] The current evidentiary record contains a "head on" conflict in the evidence that goes directly to the foundation of the case.
- [61] Quite simply, there are fundamental conflicts in the evidence that I am not satisfied can be addressed in a manner other than by preferring one view over the other. In summary, I am unable, on the evidence, to resolve the conflicts in the evidence and therefore to find the facts necessary to determine the case. Moreover, in all the circumstances of the case, I consider it would be unjust to determine it on a summary trial.

Conclusion

- [62] Given my conclusion that the matters are not suitable for disposition by resort to the summary trial procedure, both applications are dismissed and I direct the matter to the trial list.
- [63] The defendants' eviction notice served on the plaintiffs will be stayed for a further six months from the date of this judgment to allow the parties sufficient time to set the matter for trial. Given the delay that has accrued thus far and the significance of the issues to the parties, I direct that the matter should be set down for either a pre-trial conference or case management conference no later than October 31, 2012 with a view to setting an early trial date and establishing an expedited schedule for any pre-trial matters including disclosure of lists of documents and any examinations for discovery.

[64] My view of costs is that each party ought to bear their own costs as each party, for their own reasons, pressed for resolution of these applications by way of the summary trial procedure.

"Ker J."

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