

CANADA / JUDGMENT

Grewal v. Grewal

2012 BCSC 1331

COURT

Supreme Court of British Columbia

DECIDED

11 September 2012

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2012 BCSC 1331 Grewal v. Grewal IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Grewal v. Grewal, 2012 BCSC 1331 Date: 20120911 Docket: S110167 Registry: New Westminster Between: Harbans Singh Grewal Plaintiff And Harminder Singh Grewal and Zora Singh Grewal Defendants

- and - Docket: S112878 Registry: New Westminster Between: Zora Singh Grewal and Harinderpaul Kaur Grewal Plaintiffs And Harbans Singh Grewal Jasbir Kaur Grewal and Prabvir Singh Grewal Defendants
- and - Docket: S120621 Registry: New Westminster Between: Harbans Singh Grewal and Jasbir Kaur Grewal Plaintiffs And Zora Singh Grewal Defendant Before: The Honourable Mr. Justice Crawford Reasons for Judgment Counsel for Harbans Singh Grewal, Jasbir Kaur Grewal and Prabvir Singh Grewal: D.G. Perry C. Peana Counsel for Harminder Singh Grewal: D. MacAdams, Q.C. Counsel for Zora Singh Grewal and Harinderpal Kaur Grewal: G.P. Holeksa Place and Date of Hearing: New Westminster, B.C. June 15, 2012 Place and Date of Judgment: New Westminster, B.C. September 11, 2012

Introduction

- [1] The plaintiffs Zora and Harinderpaul Grewal seek to make supplemental submissions with respect to the appropriate relief flowing from my initial Oral Reasons for Judgment given on September 2, 2011.
- [2] My Reasons for Judgment given that day were summary, seeking to deal with the breakdown of the relationship of three brothers over the management of a berry farm they had bought in 2003, and the consequent disintegration of the extended family unit of Zora and his brother Harbans that began approximately in 1990 and ended during the litigation over the berry farm in late 2006.
- [3] I noted several times in my Reasons that they were not full reasons, rather a statement of decisions that might assist in causing settlement.

- [4] I noted in para. 6 that I was providing my conclusions on the evidence and that I had not dealt in any detail with the accounting issues which took up much of the trial and would need to be re-addressed after consideration of my conclusions.
- [5] Towards the end of my Reasons at paras. 80-82 I noted I had not considered all the factors including the encumbrances on the assets with respect to the division between Harbans and Zora. While my hope was that my Reasons might lead to settlement of the issues, if the parties could not agree, then they could come back to me to expand my Reasons if necessary, and lastly, that there would still be the requirement of an accounting.
- [6] Zora's application points out that my Reasons purport to distribute assets without having given full consideration to the nature of the relationship between Harbans and Zora, the pleadings as between Harbans and Zora, what assets had been accumulated, and the proposed distribution in para. 70.
- [7] As well he points to the ability of the Court to continue consideration of the matters given the case law and the wording of my Reasons.
- [8] In Harbans' written response there is a rather similar tone, namely that there be clarification "as to entitlements to payments between Harbans and Zora before any accounting" and thus Harbans sought directions for further submissions on paras. 76-80 of the Reasons.
- [9] Thus the positions of Harbans and Zora may be expressed differently but come to a rather similar position.
- [10] I note Harbans had proposed judgments dealing with the berry farm issues.
- [11] Zora on the other hand focussed on the relationship between he and Harbans and the family economic unit.
- [12] I do not propose to review the arguments at length as I am satisfied on the basis of much of Zora's argument that his position is properly taken, and indeed I invited further consideration and submissions in my original judgment.
- [13] I should note the relationship between Zora and Harbans was one that started without any formal statement of a partnership. It was made in a family context where one brother with greater skills both educationally and linguistically took under his roof his older brother who had fewer skills to succeed in Canadian society.
- [14] What might be fairly said and was pleaded by Zora is that there was a trust relationship, if not a partnership in the ordinary sense, and there was a family economic unit that worked well for some 15 to 20 years. While I am not able to unravel the historical wealth accumulation, the asset distribution I proposed was done without the benefit of counsels' arguments as to the relative contributions to the family unit, the assets and the liabilities. Assessment of these factors may affect my final opinion as to the fair division of the family unit assets.

- [15] In sum, I agree with counsel and want submissions on the assets and liabilities which I listed or otherwise described in paras. 11-30 of my Reasons (unless there are other assets that I have failed to consider), save and except the berry farm. Process
- [16] Rather than waiting for time to appear on the litigation calendar, I would suggest (subject to comments of counsel), that Zora make his written submissions within 30 days and Harbans respond in 30 days. If the argument is to be found in previous written submissions, I have retained all of the documentation and will simply require the appropriate references.
- [17] Whether we would still require an accounting may also be addressed, but it may be that counsels' knowledge of the assets and liabilities is such that the asset division can be accomplished without a formal accounting.
- [18] The second aspect is the accounting regarding the berry farm.
- [19] The impression I have is that the parties are at opposite ends of the spectrum on what has been contributed, what is owing, how it is owed, who owes who, and how much. It may be that with respect to the berry farm, given my findings in my initial Reasons that that argument needs to be amplified or perhaps set before the Registrar for further hearing.
- [20] On the other hand if the parties are satisfied the evidence is before me and further argument will adequately clarify matters, then I am open to either written submissions or additional oral argument as the parties see fit. Again, given the limited court time, if written argument suffices, then Harbans may file argument in 30 days followed by Harminder and Zora, and Harbans has a right of reply.
- [21] If further directions are sought, I am prepared to do so by telephone conference through arrangement with the Manager, Supreme Court Scheduling. "The Honourable Mr. Justice Crawford"

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