

CANADA / JUDGMENT

H.Y.C. v. M.K.H.

2024 BCSC 1942

COURT

Supreme Court of British Columbia

DECIDED

22 October 2024

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2024 BCSC 1942 H.Y.C. v. M.K.H.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

H.Y.C. v. M.K.H.,

2024 BCSC 1942

Date: 20241022

Docket: E232661

Registry: Vancouver

Between:

H.Y.C.

Spouse 1

And

M.K.H. also known as H.M.K.

also known as Y.Y.H. also known as H.Y.Y.

Spouse 2

Corrected Judgment: The text of the judgment was corrected on the front page on October 25, 2024.

Before: The Honourable Justice Jones

Reasons for Judgment

Counsel for the Applicant Spouse 1:

N. Worthington

No other appearances

Place and Date of Hearing:

Vancouver, B.C.

April 17 and 22,

May 1 and 30,

June 18 and 28, 2024

Place and Date of the Order for Divorce:

Vancouver, B.C.

June 28, 2024

Place and Date of Judgment:

Vancouver, B.C.

October 22, 2024

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Introduction

- [1] The applicant, H.Y.C., applies for a divorce pursuant to Part 2 of the Civil Marriage Act, S.C. 2005, c. 33 [CMA], as amended.
- [2] The issue on this application is whether the applicant has met the statutory requirements for an application for divorce by one spouse, without the consent of the second spouse, where the marriage is between two persons of the same sex who reside in a state that does not recognize the validity of the marriage.
- [3] The application was originally brought without notice. The hearing was adjourned for the applicant to attempt service of this application on her respondent spouse, who the applicant believes to be living in Hong Kong, but who appears to the applicant to be avoiding service.
- [4] After a number of appearances and my granting of an order for substituted service, on June 28, 2024 I made an order for the divorce requested by the applicant, with reasons to follow. These are those reasons.
- [5] The complicating factor on this application is that there is a discrepancy between the statutory provisions of the CMA, and the British Columbia Supreme Court Family Rules, B.C. Reg. 169/2009 [SCFR], Rule 2-2.1, and the SCFR Form F1.1, all of which provide the framework for an application for a no-consent divorce under the CMA in British Columbia.
- [6] The discrepancy is that the wording of Rule 2-2.1 regarding an application pursuant to the CMA for divorce by one spouse in the absence of the second spouse's consent is different than the wording of the CMA, as follows:
 - a) the CMA requires the applicant to file a court order either from a superior court in the province or territory where the marriage was performed, or from a court located in the state where one of the spouses resides;
 - b) Rule 2-2.1 requires the applicant to file an order from a court located in the state where one of the spouses resides. It does not expressly permit the applicant to satisfy this requirement by instead filing an order from the court in the province where the parties married.
- [7] The applicant submits that it is impossible for her to obtain an order from a Hong Kong court because Hong Kong, where she resides, does not recognize the validity of the parties' marriage. As a result, she submits there is no court proceeding that she can initiate in Hong Kong to obtain the order required under Rule 2-2.1.

Background

- [8] The applicant's affidavit provides the following background:

- a) The applicant and the respondent were married on June 18, 2013 in Burnaby, British Columbia;
 - b) At the time of their marriage, both parties were habitually resident in Hong Kong;
 - c) The parties were married in British Columbia because Hong Kong does not recognize same-sex marriage;
 - d) The applicant currently resides in Hong Kong, where she has resided since 1998;
 - e) The parties have been living separate and apart since July 3, 2021;
 - f) The applicant believes that the respondent also currently resides in Hong Kong.
- [9] On October 20, 2023, the applicant submitted an application to the Supreme Court of British Columbia for a desk order divorce.
- [10] On February 2, 2024, the Registry rejected the application because the applicant did not comply with the Rule 2-2.1 requirement to file an order from a court located in the jurisdiction where one of the spouses resides - in this case Hong Kong - declaring that the second spouse is incapable of making decisions about his or her civil status because of a mental disability; is unreasonably withholding consent; or cannot be found.
- [11] The applicant now applies for an equivalent order from this Court declaring that the respondent is incapable of making decisions, unreasonably withholding consent, or cannot be found, in addition to an order that she and the respondent are divorced. In the alternative, she seeks directions from this Court.

Legal Framework

CMA wording

[12] The present wording of s. 7 of the CMA regarding an application for divorce is as follows:

7 (1) The court of the province where the marriage was performed may, on application, grant the spouses a divorce if

- (a) there has been a breakdown of the marriage as established by the spouses having lived separate and apart for at least one year before the making of the application;
- (b) neither spouse resides in Canada at the time the application is made; and
- (c) each of the spouses is residing -- and for at least one year immediately before the application is made, has resided -- in a state where a divorce cannot be granted because that state does not recognize the validity of the marriage.

- (2) The application may be made by both spouses jointly or by one of the spouses with the other spouse's consent or, in the absence of that consent, on presentation of an order from the court or a court located in the state where one of the spouses resides that declares that the other spouse
- (a) is incapable of making decisions about his or her civil status because of a mental disability;
 - (b) is unreasonably withholding consent; or
 - (c) cannot be found.
- (3) Despite paragraph (2)(c), the other spouse's consent is required if that spouse is found in connection with the service of the application.

[Emphasis added.]

- [13] The underlined portion of the wording of s. 7 emphasizes that the order required by the spouse seeking a divorce without the other spouse's consent, requires either an order of the "court", defined for British Columbia as the Supreme Court of the province, or an order of the state where one spouse resides.

SCFR, Rule 2-2.1

- [14] The present wording of the SCFR, Rule 2-2.1 is as follows, with emphasis on the requirement for a court order from the jurisdiction where one of the spouses resides, but not, as an alternative, an order of the Supreme Court of British Columbia:

- (1) In this Rule,

"court order", in respect of a marriage to which Part 2 of the Civil Marriage Act (Canada) applies, means a certified copy of an order from a court in the jurisdiction where one of the spouses resides declaring that the other spouse

- (a) is incapable of making decisions about the other spouse's own civil status because of a mental disability,
- (b) is unreasonably withholding consent, or
- (c) cannot be found;

"supporting affidavit" means an affidavit respecting the grounds for divorce as set out in section 7 (1) of the Civil Marriage Act (Canada).

- (2) A divorce under Part 2 of the Civil Marriage Act (Canada) may be sought by filing all of the following:
- (a) an application in Form F1.1;
 - (b) the marriage certificate;

- (c) the applicable of the following:
- (i) a supporting affidavit sworn by both spouses;
 - (ii) supporting affidavits sworn by each spouse;
 - (iii) a supporting affidavit sworn by the applicant spouse and a court order respecting the other spouse.

[Emphasis added.]

[15] Also, the form of application required by the Rule - Form F1.1 - requires the applicant to check a box to indicate whether the application is made by both spouses jointly, or by one spouse with consent of the second spouse, or if by one spouse:

[] by Spouse 1 with an order referred to in section 7(2) of the Civil Marriage Act (Canada) [attach affidavit of Spouse 1 respecting the grounds for divorce under section 7(1) of the Civil Marriage Act (Canada) and a copy of that order]"

[Emphasis added.]

[16] The order referred to in s. 7(2) of the CMA would include either an order from the Supreme Court of British Columbia, or from the state where the person resides, hence the wording of Form F1.1 is consistent in its reference to an order referred to in s. 7(2) of the CMA, but not consistent with the requirement in Rule 2-2.1 for an order from a court in the jurisdiction where one of the spouses resides.

Legislative History

[17] The legislative history of the CMA and SCFR, Rule 2-2.1 provides the context for the present wording of the CMA and SCFR, Rule 2-2.1.

Enactment of the CMA

[18] Parliament enacted the CMA in 2005 to allow for two persons of the same sex to marry in Canada. In its preamble, the CMA acknowledges that "in order to reflect values of tolerance, respect and equality consistent with the Canadian Charter of Rights and Freedoms, access to marriage for civil purposes should be extended by legislation to couples of the same sex."

[19] Upon enactment, the CMA also created a legislative pathway for same-sex couples to obtain a divorce. It did so by amending the definition of "spouse" in s. 2(1) of the Divorce Act, R.S.C. 1985, c. 3 (2nd Supp) from "either of a man or woman who are married to each other" to "either of two persons who are married to each other" (emphasis added).

[20] However, for a court in a province to have jurisdiction to grant a divorce under the Divorce Act, at least one spouse must be habitually resident in the province for at least one year immediately preceding the commencement of the proceeding: Divorce Act, s. 3(1). Spouses living outside of Canada therefore cannot obtain a divorce in Canada under the Divorce Act.

- [21] As a result, non-resident spouses married in Canada who reside in a state where they cannot obtain a divorce find themselves in a legal bind of being unable to obtain a divorce, the very bind within which the applicant here now finds herself.
- [22] The issue arose, notably, in relation to same-sex couples who married in Canada following the enactment of the CMA but resided in a state that did not recognize the validity of same-sex marriages, and as a result, would not grant them a divorce.

Bill C-32

- [23] The issue was recognized by Parliament, which sought to remedy the issue by introducing Bill C-32 in 2013.
- [24] At the second reading of the Bill in the Senate on June 19, 2013, the Honourable Senator Douglas Black outlined the issue and the proposed legislative solution, as follows:

The second part of this bill would create a new process to allow non-resident couples married in a Canada to dissolve their Canadian marriage following relationship breakup. The new divorce process is structured within the Civil Marriage Act rather than as an amendment to the Divorce Act.

[]

Clearly, however, the residency requirement, while logical for most couples, causes hardship for non-resident couples who were married in Canada because they could not marry in their own country. In many of these cases, as their Canadian marriage is not recognized where they live, they are also then unable to divorce. Bill C-32 would create a specific divorce process for these non-resident couples in order to alleviate that hardship. This divorce process is unique because it is designed to address the unique needs of these non-resident couples.

See Bill C-32, An Act to Amend the Civil Marriage Act, 2nd reading, Debates of the Senate, 41-1, Vol. 150, No. 177 (19 June 2013) at 1710 [Second Reading].

- [25] Senator Black noted that an "integral part" of the new divorce process contained in Bill C-32 was that it would operate with the consent of both parties. However, he also noted that there may be situations where a non-resident spouse seeks a divorce in Canada without the consent of the other spouse. Senator Black summarized the Bill's approach to this situation, which would require the applicant to file a court order, either from a Canadian court or from a court in the spouse's country of residence:

To address this concern, Bill C-32 would allow a Canadian court to proceed without consent by relying on its own order or an order from a court in the spouse's country of residence in three circumstances: one, where the other spouse is incapable of making decisions because of a mental disability; two, where the other spouse cannot be found; or three, where the other spouse is unreasonably withholding consent.

These are orders that one spouse may already have from another court proceeding in their own country. In addition, the House of Commons adopted an amendment to clause 4 in proposed subsection 7(2) of Bill C-32 to also allow parties to seek such orders from a Canadian court should they so choose.

[Emphasis added.]

See Second Reading at 1720.

[26] Senator Black acknowledged, earlier in his remarks, that one reason why a non-resident spouse would seek such an order from a Canadian court is that if country where the spouse resides does not recognize their marriage, a court in that country would not recognize the divorce or any other order related to it.

[27] The Honourable Senator Serge Joyal similarly noted that allowing non-resident spouses to obtain a divorce with a Canadian court order would be necessary for same-sex spouses living in countries that do not recognize same-sex marriage:

This bill was well thought through. I have read it, and Senator Black explained it better than I could have, especially the amendments introduced yesterday to clause 7(4) of the bill. It was a necessary amendment because it put the couple in the hands of a court of a country that is inimical to people of the same sex.

[Emphasis added.]

See Second Reading at 1730.

[28] On June 20, 2013, the Standing Senate Committee on Legal and Constitutional Affairs met to consider Bill C-32. Lisa Hitch, Senior Counsel at Justice Canada and a witness at the meeting, noted the following when asked whether the amendments proposed by Bill C-32 would conflict with the provincial rules of court:

This bill would propose, similar to the Divorce Act, that the rules committees of the various provinces provide and prepare rules for administering these amendments were they to pass through the Senate and receive Royal Assent. Therefore, I believe that the rules committees would work very hard to structure their rules so that there was no conflict. If there is, the Governor-in-Council has reserved regulatory authority to ensure uniformity, if necessary.

See Senate, Standing Committee on Legal and Constitutional Affairs, Evidence, 41-1, No. 41 (20 June 2013).

[29] Bill C-32 received royal assent on June 26, 2013 as the Civil Marriage of Non-residents Act, S.C. 2013, c. 30. The relevant amendments to the CMA came into force on August 14, 2013.

Subsequent amendments to procedural rules in British Columbia

- [30] In response to Bill C-32's amendments to the Civil Marriage Act, the Supreme Court of British Columbia issued Practice Direction 43: Civil Marriage Act- Procedures for Divorce ("PD-43"), which came into effect on October 28, 2013.
- [31] PD-43 set out the procedural requirements for non-resident same-sex spouses who married in British Columbia to obtain a divorce under the CMA. It specifically provided that where a spouse sought a divorce without the other spouse's consent, the applicant would need to submit a court order from a court located in the jurisdiction where one of the spouses resides:

Who may bring application

2. In keeping with s. 7(2) of the Civil Marriage Act, an application for divorce may be made by
[]
 - b. one spouse with the other spouse's consent, or
 - c. in the absence of that consent, the spouse making the application must present an order from a court located in the jurisdiction where one of the spouses resides declaring that the other spouse

[Emphasis added.]

- [32] Therefore, despite its wording that it was "[i]n keeping" with s. 7(2) of the CMA, PD-43 did not permit a spouse to apply for a no-consent divorce with an order from a Canadian court where the marriage was performed, apparently not including, or missing the wording of the amendment to Bill C-32 which allowed for an order from the designated court of a province or territory.
- [33] Following the rescission of PD-43, the procedure for applying for a divorce under the CMA in British Columbia has been governed by R. 2-2.1 of the SCFR, which came into force on July 1, 2016.

Analysis

Divorce under the Divorce Act

- [34] A divorce under the Divorce Act is not available to the parties because neither party is habitually resident in Canada: Divorce Act, s. 3(1).
- [35] Section 8 of the CMA provides that the Divorce Act does not apply to a divorce granted under the CMA.

Divorce under the CMA

[36] Section 7(1) of the CMA allows spouses who are not habitually resident in Canada to obtain a divorce. It sets out the three conditions that spouses must meet in order for the court to grant a divorce:

7 (1) The court of the province where the marriage was performed may, on application, grant the spouses a divorce if

- (a) there has been a breakdown of the marriage as established by the spouses having lived separate and apart for at least one year before the making of the application;
- (b) neither spouse resides in Canada at the time the application is made; and
- (c) each of the spouses is residing -- and for at least one year immediately before the application is made, has resided -- in a state where a divorce cannot be granted because that state does not recognize the validity of the marriage.

[37] Where one spouse applies for a divorce without the other spouse's consent, s. 7(2) additionally requires the applicant to provide "an order from the court or a court located in the state where one of the spouses resides" declaring that the other spouse:

- a) is incapable of making decisions about his or her civil status because of a mental disability;
- b) is unreasonably withholding consent; or
- c) cannot be found.

[38] Section 6 of the CMA provides that each of the provincial and territorial superior courts in Canada, including this Court, qualifies as a "court" within the meaning of ss. 7(1) and (2).

[39] Further, s. 12(1) of the CMA provides for a "competent authority" in respect of a court in a province to make rules regarding the practice and procedure in that court applicable to any applications made under part 2 of the CMA. Rule 2-2.1(2) of the SCFR is such a rule.

Do the SCFR limit the Court's authority to grant a divorce under the CMA?

[40] As noted above, Rule 2-2.1(2) of the SCFR sets out the procedures for seeking a divorce under the CMA. It provides that a spouse may apply for a divorce under the CMA without the consent of the other spouse by filing an order from a court in the jurisdiction where one of the spouses resides declaring that the other spouse:

- a) is incapable of making decisions about his or her civil status because of a mental disability;
- b) is unreasonably withholding consent; or
- c) cannot be found.

[41] There is a discrepancy between s. 7(2) of the CMA and Rule 2-2.1 of the SCFR.

- [42] Where one spouse applies for a divorce without the consent of the other spouse, both the CMA and the SCFR require the applicant spouse to provide a court order declaring that the other spouse is incapable of making decisions, is unreasonably withholding consent, or cannot be found.
- [43] However, Rule 2-2.1(1) of the SCFR provides for an applicant to file an order from "a court in the jurisdiction where one of the spouses resides", whereas s. 7 of the CMA provides the option for an applicant to file a court order from a provincial or territorial superior court in Canada, regardless of where the spouses reside.
- [44] The result is that the SCFR do not expressly permit a non-resident spouse who was married in Canada from seeking a no-consent divorce under the CMA if they cannot obtain the requisite order from a court in the state in which they now reside, even if the reason they cannot do so is because that state does not recognize the validity of their marriage. However, s. 7 of the CMA grants this Court the authority to order divorces in those circumstances, so long as the applicant spouse can alternatively obtain the requisite order from a superior court in Canada.
- [45] Despite this discrepancy between the CMA and the SCFR, I find that the SCFR do not prohibit this Court from granting a no-consent divorce under the CMA where a non-resident spouse presents the requisite court order from a superior court in Canada. I reach this conclusion for several reasons.
- [46] First, Rule 2-2.1(2) simply lists the documents that an applicant "may" file to seek a divorce under the CMA. It does not state that an applicant "must" file those particular documents to do so. In other words, the SCFR do not expressly narrow the range of possible documents that the court may rely on in order to exercise its authority to grant a divorce pursuant to the CMA. The SCFR therefore do not, on their face, restrict the Court from granting a no-consent divorce under the CMA on the basis of an order from a superior court in Canada, as opposed to an order from a court in the state in which the applicant resides.
- [47] Second, the object of the SCFR is, in part, to "secure the just, speedy and inexpensive determination of every family law case on its merits": Rule 1-3(1)(b) (emphasis added). Determining the merits of an application for a divorce under the CMA requires the court to consider whether the application meets the statutory requirements for obtaining a divorce. Prohibiting an applicant from demonstrating that they have met those statutory requirements--by only accepting proof of one possible way of meeting them--would frustrate the process of making this determination. As a result, interpreting the SCFR to that effect would be inconsistent with the object of the SCFR. The modern approach to statutory interpretation requires courts to read the words of legislation harmoniously with the object of the legislation: *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 S.C.R. 27, 1998 CanLII 837 at para. 21 [Rizzo].

[48] Third, courts should favour harmonious interpretations of federal and provincial legislation. I am mindful of the comment of Justices Abella and Gascon to this effect in *Saskatchewan (Attorney General) v. Lemare Lake Logging Ltd.*, 2015 SCC 53:

[21] Given the guiding principle of cooperative federalism, paramountcy must be narrowly construed. Whether under the operational conflict or the frustration of federal purpose branches of the paramountcy analysis, courts must take a "restrained approach", and harmonious interpretations of federal and provincial legislation should be favoured over interpretations that result in incompatibility .

[Citations omitted.]

[49] Finally, I note Justice Turcotte's commentary in *Burgsteden v. Jewitt*, 2020 SKQB 284 regarding the purpose and context of the CMA, which I find to be helpful in interpreting the SCFR:

[57] The context of the Civil Marriage Act is important. The Act was introduced to extend the availability of the institution of marriage to same-sex couples and explained why the government was doing so. It also made amendments to the Divorce Act so that same-sex couples had equal access to divorce. As a result, while Parliament saw the importance of allowing same-sex couples to legally marry civilly, it also recognized that same-sex couples may also need access to legal civil divorces.

[50] The debates in Parliament on Bill C-32 summarized above reveal a clear legislative intent to ensure that same-sex couples who were married in Canada and who reside in states that do not recognize the validity of their marriage are still able to obtain a no-consent divorce in Canada. I note that while such evidence will generally have limited reliability and weight, it may be admitted as relevant to the background and purpose of the legislation: *Rizzo* at para. 35, citing *R. v. Morgentaler*, [1993] 3 S.C.R. 463 at 484, 1993 CanLII 74.

[51] For these reasons, notwithstanding Rule 2-2.1(1) of the SCFR, I find that this Court has the authority to grant a divorce under s. 7(1) of the CMA, in the absence of the consent of one of the spouses, with a court order from a superior court of Canada containing one of the requisite declarations set out in s. 7(2), provided that all of the other statutory criteria in s. 7(1) are met.

Application

[52] The applicant has filed affidavits deposing that the parties have lived separate and apart for over one year before the making of the application. The applicant affirms there is no possibility of reconciliation between her and her spouse. Accordingly, I find there has been a breakdown of the marriage within the meaning of s. 7(1)(a) of the CMA.

[53] I similarly accept that neither party was residing in Canada at the time the applicant made the present application, thereby satisfying s. 7(1)(b).

[54] Further, I accept that both parties currently reside in Hong Kong, and that they have resided there for at least one year immediately before the applicant made the present application.

Is the validity of the parties' marriage recognized in Hong Kong?

[55] In order to satisfy s. 7(1)(c), the applicant must also demonstrate that a divorce cannot be granted in Hong Kong because Hong Kong does not recognize the validity of the parties' marriage.

[56] Justice Veenstra explained in *X.W.L. v. J.L.*, 2021 BCSC 860 that while affidavit evidence of the spouse(s) will generally be able to satisfy the other requirements of s. 7(1), expert evidence is required to establish that the applicable foreign jurisdiction does not recognize the validity of same-sex marriage: at paras. 10-11, citing *Giesbrecht v. Lo*, 2020 ONSC 3258.

[57] The applicant has filed an affidavit of a lawyer in Hong Kong.

[58] For the purpose of this application, based on the lawyer's affidavit, I accept that the lawyer is qualified to provide opinion evidence on family law in Hong Kong. I also note that the affidavit complies with Rule 13-2 of the SCFR, which requires experts to certify that they are aware of and accept their duty to assist the court and not to be an advocate for either party.

[59] The lawyer's affidavit cites various ordinances that inform his opinion that Hong Kong does not recognize same-sex marriages. He also cites a recent judgment of the Hong Kong Court of Final Appeal, *Sham Tsz Kit v. Secretary for Justice*, [2023] H.K.C.F.A. 28, in which he states the Court unanimously affirmed that there is no constitutional obligation to recognize the validity of same-sex marriages in Hong Kong, including foreign same-sex marriages.

[60] The lawyer provides the further opinion that no divorce can be obtained in Hong Kong courts in relation to a same-sex marriage.

[61] I accept the lawyer's evidence that same-sex spouses cannot obtain a divorce in Hong Kong because Hong Kong does not currently recognize the validity of same-sex marriage. As a result, I find that the applicant has met the requirement in s. 7(1)(c).

Should the court grant a divorce in the absence of the respondent's consent?

[62] Given that the respondent has not provided evidence that she consents to the divorce, I must consider whether to grant an order declaring that the respondent is either incapable of making decisions, is unreasonably withholding consent, or cannot be found, which would satisfy the requirement in s. 7(2) of the CMA.

[63] The applicant's affidavits provide evidence of the efforts she made in April 2024 to contact the respondent to seek her consent to the divorce, and the efforts she made to personally serve the divorce application documents on the respondent, including:

- a) The applicant sent WhatsApp messages to a phone number associated with the respondent's WhatsApp account, which the respondent had been using for at least ten years, and the respondent had used to contact the applicant in or about April 2022. The WhatsApp messages indicated - with two blue check marks - that the messages had been received and opened by the recipient.
 - b) The applicant visited the respondent's residence to attempt to obtain her consent to the divorce. The applicant was unable to make contact with the respondent, but left a note and a copy of a draft affidavit regarding the divorce application under the respondent's door.
 - c) The applicant sent emails to the respondent at two separate email addresses, referring to the applicant's delivery to the respondent's residence of documents regarding the divorce application. The applicant did not receive a response from the respondent.
 - d) The applicant telephoned the respondent from different phone numbers. The calls went unanswered, and there was no response from the respondent.
- [64] The applicant's affidavits include evidence of the respondent's ownership of the residence where the applicant attempted to personally serve the divorce application documents on the respondent.
- [65] On May 1, 2024 I granted an order for alternative service allowing the claimant to serve the divorce application documents outside of British Columbia by mailing the documents to the respondent's residence in Hong Kong, emailing the documents to the respondent's emails, and leaving a copy of the documents at the respondent's residence in Hong Kong.
- [66] In June 2024 the applicant served the divorce application documents by the methods of alternative service in the order dated May 1, 2024.
- [67] Despite the applicant's efforts to secure the respondent's consent to the divorce as set out above, the respondent has not responded to the applicant.
- [68] As a result of the applicant's efforts summarized above to secure the respondent's consent to the divorce, I find that the applicant has established that the respondent is unreasonably withholding her consent to the divorce.

Conclusion

- [69] I find that the applicant has fulfilled the statutory requirements for obtaining a divorce pursuant to s. 7 of the CMA.
- [70] As a result, I make the following orders:
- a) Pursuant to the Civil Marriage Act, S.C. 2005, c. 33, a declaration that Spouse 2, M.K.H. also known as H.M.K. also known as Y.Y.H. also known as H.Y.Y. is unreasonably withholding consent to the application for divorce made by Spouse 1.

- b) Pursuant to the Civil Marriage Act, S.C. 2005, c. 33, Spouse 1, H.Y.C., and Spouse 2, M.K.H. also known as H.M.K. also known as Y.Y.H. also known as H.Y.Y., who were married in Burnaby, British Columbia, Canada, on June 18, 2013, are divorced from each other, the divorce to take effect on the date of this Order.

"Jones J."

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