

CANADA / JUDGMENT

Isaac-Renton v. Isaac-Renton

2020 BCSC 1673

COURT

Supreme Court of British Columbia

DECIDED

23 October 2020

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2020 BCSC 1673 Isaac-Renton v. Isaac-Renton IN THE SUPREME COURT OF BRITISH COLUMBIA
Citation: Isaac-Renton v. Isaac-Renton, 2020 BCSC 1673 Date: 20201023 Docket: E-184739 Registry: Victoria Between: Judith Lynn Isaac-Renton also known as Judith Lynn Isaac also known as Judith Lynn Renton Claimant And: Robert Henry Isaac-Renton also known as Robert Henry Isaac and 536070 B.C. Ltd. Respondents Before: The Honourable Mr. Justice Johnston Oral Reasons for Judgment In Chambers Counsel for the Claimant: L. K. Weston via telephone Counsel for the Respondent: W. A. Van der Sande via telephone Place and Date of Trial/Hearing: Victoria, B.C. October 23, 2020 Place and Date of Judgment: Victoria, B.C. October 23, 2020

- [1] THE COURT: This is an application brought on short leave. The application is by Ms. Isaac-Renton; who is the claimant in Family Law proceedings. She seeks to adjourn a matter that is set for a hearing next week; that is an interim application brought by the respondent Mr. Isaac-Renton.
- [2] The grounds for the adjournment sought are that Ms. Isaac-Renton had acting for her a lawyer named Christine Murray. While Ms. Murray may have been on and off the record at various times, it would appear from a draft order that I have been shown in the material that Ms. Murray was acting for and appeared in this court on behalf of Ms. Isaac-Renton as late as September 30 of this year.
- [3] The adjournment is sought because, since that appearance, Ms. Murray has apparently suffered a medical complication or problem that prevents her from acting now and has caused Ms. Isaac-Renton to seek new counsel; counsel who brought this application.
- [4] Mr. Isaac-Renton strenuously opposes any adjournment. He points to financial necessity as the primary ground saying that unless the hearing next week goes ahead, and unless something is done by way of court order, very significant assets owned by the parties, and arguably family property, are at risk because of the inability or refusal, depending on whose point of view one takes, to maintain payments on these properties.

- [5] I am told that mortgages will be due November 1 and November 7, that Mr. Isaac-Renton is unable to meet those mortgage obligations and that he believes Ms. Isaac-Renton can easily do so. Mr. Isaac-Renton says that if this matter must be adjourned, it should only be on condition that Ms. Isaac-Renton make the payments required.
- [6] Whether or not a matter should be adjourned is almost a pure question of discretion insofar as the judge hearing the adjournment application. Adjournments are sought occasionally for tactical reasons. Adjournments are sought occasionally out of necessity. I view this as an adjournment precipitated by necessity.
- [7] I have before me, I guess it is, a 3-inch binder. I am told that there are 1,200 and some odd pages of material for new counsel to digest. Mr. Isaac-Renton's counsel said, you do not have to digest all of that because some of it is duplication, and the documents can be winnowed down to a more manageable level.
- [8] In my view, it would be unjust to compel Ms. Isaac-Renton to carry on next week with brand new counsel who will have a matter of days, perhaps as much as a week, to digest a great volume of material involving a fairly significant value in terms of assets and undoubtedly some complex questions.
- [9] Counsel for Mr. Isaac-Renton says, "well this isn't all that hard. The questions are fairly straightforward." I do not know that. I have not been able to get into that in this hearing. What I can say is that judges in chambers are now concerned about what the Court of Appeal has recently said, and that is, whether it is on a petition matter or an interlocutory chambers matter, if there are triable issues, a judge in Chambers has no option but to send those triable issues to the trial list and leave it to counsel to determine whether or not they might want to attempt to have the trial heard by way of summary trial.
- [10] Without deciding it, I am concerned that, given the volume of material and what little I have heard from counsel today, that this is a matter that is probably prime for consideration in terms of requiring a trial, as opposed to interim or interlocutory disposition.
- [11] So I adjourn next week's application. I adjourn it generally. I do so knowing that there may be some considerable urgency brought on by the mortgages and other financial obligations, I should not say I know because I cannot be sure of this, but expecting that both parties are equally at risk if those financial obligations are not met. That is, if there is default on a mortgage and foreclosure, from what I understand, both parties are equally exposed to a loss. Whether it is a loss by way of foreclosure or an improvident sale forced by foreclosure.
- [12] So I am not going to impose conditions on this adjournment. I expect that both parties have every interest in bringing the matter on and the processes and procedures allowed in the Rules to set matters down either for hearing, if that is the way it is going to go, or for trial are at this point sufficient.

- [13] Finally, I should deal with the issues or questions on this adjournment application flowing from the order said to have been granted by Madam Justice Power September 30, 2020.
- [14] I have a draft order. I have clerk's notes. What I do not have is an entered order, without saying there is anything wrong with the order as drafted, I am reluctant to act upon a draft order. Orders, if they are to make any difference in an application such as this, have to be entered.
- [15] We will adjourn.
- [16] MR. VAN DER SANDE: My Lord, can I address the entered order?
- [17] THE CLERK: Order in court.
- [18] THE COURT: Sorry?
- [19] MR. VAN DER SANDE: How do I affect - there is no - nobody who will sign the order?
- [20] THE COURT: Mr. Van der Sande, I am not going to debate this with you. Your order has not been entered. It is not affective until it is entered.
- [21] MR. VAN DER SANDE: I -- I -- I -- could I address that for a moment?
- [22] THE COURT: We will adjourn. "R.T.C. Johnston, J." The Honourable Mr. Justice Johnston

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