

CANADA / JUDGMENT

## J.R.E. v. 07-----8 B.C. Ltd.

2013 BCSC 2038

### COURT

Supreme Court of British Columbia

### DECIDED

7 November 2013

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2013 BCSC 2038 J.R.E. v. 07-----8 B.C. Ltd.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

J.R.E. v. 07-----8 B.C. Ltd.,

2013 BCSC 2038

Date: 20131107

Docket: E131888

Registry: Vancouver

Between:

J. R. E. also known as J. R. P.

Claimant

And

07-----8 B.C. Ltd., 08-----7 B.C. Ltd., B----l Holdings Inc.,

D. J. E. and F-- -D-----s S----- Inc.

Respondents

Before: Master Baker

Notice: Also see Addendum dated November 14, 2013

Reasons for Judgment

In Chambers

Counsel for the claimant:

M.R. Ellis Q.C.

Counsel for the respondent D.J.E.:

S. L. Specht

Place and Date of Hearing:

Vancouver, B.C.

October 31, 2013

Place and Date of Judgment:

Vancouver, B.C.

November 7, 2013

## ISSUE

- [1] The claimant wife ("J") applies to extend an interim order granted by Master McCallum October 25th whereby the respondent ("D") is restrained from attending at the parties' former matrimonial home save and except to pick up the parties' children for parenting time. The order was to expire at 5:00 p.m. on the date of this hearing, i.e. October 31st. For reasons given below (para. 23) I extended the order until 5:00 p.m. Friday November 8th unless further extended by these reasons.

## BACKGROUND

- [2] The parties began cohabiting in September 2005, married in June 2007, and separated April 5th, 2013. They have two children; C, a son aged 2; and S, a five-year old daughter.
- [3] The separation was triggered by J's conclusion and consequent allegation that D was sexually abusing the children and had been abusing them for years. The allegations were investigated by several agencies. The RCMP investigated and found no evidence of abuse. The Ministry of Children and Families investigated, found no basis for the allegation and concluded the children were not at risk. Finally, as a consequence of a consent order reached at a Judicial Case Conference, Dr. Nicole Aube conducted a s. 211 investigation and made a report into the parties' parenting. While Dr. Aube was clear in her understanding that her task was not to decide definitively whether or not D had abused the children, she concluded, for the purposes of recommending parenting arrangements, that D had not abused the children. She then went farther and concluded that J's behaviour

is consistent with a 'Non-Bizarre Delusional Disorder' (DSM IV-TR and DSM-V). This disorder is a very uncommon psychiatric condition in which patients present with firm delusions, unshakable false beliefs that involves situations that could potentially occur in real life. The delusions usually involve the misinterpretation of perception or experiences that in reality are either not true at all or highly exaggerated.

It is fair to say that, despite all these conclusions to the contrary, J still and absolutely believes that the abuse occurred and that the conclusions of these investigations were all incorrect because S did not make disclosure to the investigators. It is also fair to say that this belief is sincerely held by J.

## PARTIES' POSITIONS

- [4] While the matter was argued exhaustively and at length, the positions are fairly simple and clear. Firstly, Ms. Ellis submitted that security in the family home for J and the children can only be assured by an order for exclusive occupancy and/or more appropriately a protection order preventing D from attending at the home. She argues that the latter is more important because a police assist clause is typically part of a protection order but that the police will not enforce an order for exclusive occupancy, at least not to the extent of removing the other party.
- [5] Ms. Ellis argues that there is evidence of family violence having occurred and that there is the likelihood of further violence if the order is not made. The violence, she submits, is principally in the form of the sexual abuse, intimidation, or perhaps oppressive behaviour by D and that J's sense (conviction, even) of threat and vulnerability require the order.
- [6] Ms. Specht argues that, simply, there is no family violence whatsoever and that there are only allegations by J. She repeatedly pointed to the results of the investigations as negating any sexual abuse by D and that, rather, the allegations proved nothing save J's delusional behaviour. Queried about J's honestly-held belief in the risk to her and the children Ms. Specht argued that to invest too much in that was to begin on a "slippery slope" whereby anyone could allege that he or she felt threatened and thereby justify a protection order.

## THE LAW

- [7] While the applications brought by J asked for several things, the only two matters Ms. Ellis pressed were claims for exclusive occupancy of the home and for a protection order that would prevent D from attending at the home. Section 90 of the Family Law Act[1] (FLA) governs the former and ss. 182-185 the latter. Also essential to the analysis is the definition of "family violence" provided by s. 1.
- [8] Section 90 provides, in part:
- 90 (1) For the purposes of this section, "family residence" means a residence that is
- (a) owned or leased by one spouse or both, and
  - (b) the ordinary place of residence of the spouses.
- (2) The Supreme Court may make an order granting a spouse, for a specified period of time,
- (a) exclusive occupation of a family residence

While the section provides for exclusive occupation, nothing in the balance of the section precludes the other party from attending at or entering upon the premises although if that extended to an attempt to co-occupy the premises one expects that the other party would be in breach. The problem with this potential state of affairs is that it is unusual to accompany an order for exclusive occupancy with a peace officer assist clause; i.e. a direction to peace officers to assist in the enforcement of the order and, in effect, eject or remove the other party. Some constabularies interpret s. 90 orders, in the absence of the peace officer assist order, to be a property matter and not a protection issue, and that without specific direction the peace officer in question is not to assist either party in asserting or challenging what appears to them to be a proprietary right.

[9] Sections 182-185 are lengthy and are appended to these reasons separately. Suffice it to say that those provisions go, in my respectful view, considerably farther than the FLA's predecessor, the Family Relations Act[2] in providing means by which the court may address family violence. It does this in at least three ways. Firstly, it provides (in s. 1) much greater detail in the definition of what constitutes family violence. Secondly, it provides (in s. 183) much more detail and definition as to the terms or types of protection orders available. Thirdly, s. 184 specifically directs what considerations the court must make in any application for a protection order.

[10] The law in respect of exclusive occupancy has been long-established and, interestingly, has not been seriously addressed or changed by the FLA (in contrast to the FLA's expansion of provisions respecting family violence, above[3]). For over 30 years the test remained:

- a) is continued cohabitation a practical impossibility and
- b) if so, on the balance of convenience which party should occupy?[4]

I suspect that the first part of the test has been, if indirectly, modified by the FLA and its increased focus on family violence. I suspect that in the past there have been instances that, by current legislation, would qualify as family violence that the court is now mandated to consider and act upon, but which may not, at the time and under the Family Relations Act, have created an impossible situation in the mind of the court. While the FLA does not directly link ss. 90 and 226 with family violence, if one found facts falling within the FLA's definition of violence I expect that the court would be obliged to factor that into any application for exclusive occupancy.

[11] It seems to me, then, that the immediate question is. Has there been, or is there likely to be, family violence? Such a finding would affect both occupancy and protection. Section 1 of the FLA defines family violence widely:

"family violence" includes

- (a) physical abuse of a family member, including forced confinement or deprivation of the necessities of life, but not including the use of reasonable force to protect oneself or others from harm,

- (b) sexual abuse of a family member,
- (c) attempts to physically or sexually abuse a family member,
- (d) psychological or emotional abuse of a family member, including
- (i) intimidation, harassment, coercion or threats, including threats respecting other persons, pets or property,
- (ii) unreasonable restrictions on, or prevention of, a family member's financial or personal autonomy,
- (iii) stalking or following of the family member, and
- (iv) intentional damage to property, and
- (e) in the case of a child, direct or indirect exposure to family violence;

I am unable to find that any of these instances have occurred. The most obvious and relevant form of violence in this case would be actual or attempted sexual abuse, but as I've indicated above, every investigation has disproven the allegation. Indeed, not only did Dr. Aube conclude the allegation was not proven, she concluded that sexual abuse has never happened. There is simply no evidence upon which to base the allegation.

[12] Ms. Ellis argued emphatically that D's return to the home, his insistence on remaining, and his (in her view) obdurate position regarding family funds all add up to "psychological or emotional abuse" or "intimidation, harassment, coercion or threats". With respect, I do not think so. I think it possible that D is rigid, insistent, inflexible, possibly confrontational or perhaps even provocative, but taking a hard or insistent position does not necessarily mean emotionally abusing the other party, nor must it be seen as intimidation, harassment, etc. If that were the case, how could a party in matrimonial negotiations (a famously bruising process) take a firm position?

[13] No, the argument turns more on J's response to these events and to D's attitude. I consider this possibility even more specifically when I consider s. 184(1), which mandates specific considerations for the court. Shortly put, and considering the factors in turn, I do not consider that there is any "history of family violence" established and therefore cannot find that it is "repetitive or escalating". I find that D's attitude and responses do not constitute "psychological or emotional abuse", or a "pattern of coercive and controlling behaviour". The current status of the relationship between J and D is clearly and obviously fraught with great stress and angst. Each party is so imbued with his or her sense of right that they are unshakable in their certitude. One of the consequences of this is that, in keeping with many couples in their situation, they become incapable of considering the other party's views or wishes with any degree of objectivity, let alone empathy. They regard even the slightest concession to the other as bending their own will to the others and thereby yielding. They see any yielding as the beginning of a long slide into complete capitulation or, just as concerning, evidence to a third party (this court, for example) of their accession to the

other's position and, therefore, an admission that they are wrong. A corollary to this is that each party is convinced that the other is, in all things, wrong and that when the court speaks to the two of them about compromise or the possibility of being wrong, it is speaking only to the other party. That is the state of their relationship at this time in general, but for the purposes of the mandated consideration of s. 184(1)(d), I cannot see that the fact of two implacable wills facing each other somehow constitutes family violence.

[14] Section 184(1)(e) directs that I consider not past family violence, but the potential for future violence:

any circumstance of the family member against whom the order is to be made that may increase the risk of family violence by that family member, including substance abuse, employment or financial problems, mental health problems associated with a risk of violence, access to weapons, or a history of violence;

First, this term is badly drafted. One way to read it, for example, is that it is already established that an order will be made ("the family member against whom the order is to be made"). I do not think that is the intent; I think it means "any circumstance" of the respondent to the application; otherwise the preamble reference to the court deciding "whether to make an order" is meaningless.

[15] Having concluded this, one must apply basic statutory interpretation rules and at the very least read the term *ejusdem generis*: I do not take it as limiting, but it does address substance abuse, employment/financial problems, mental health problems pertaining to a risk of violence, weapons, or a history of violence. Therefore, while not exclusive, the prefatory phrase "any circumstance" is guided by those aspects. On the subject of how an order might affect D, I found several of Dr. Aube's findings or observations interesting. At p. 35 of her report, for example, she described him as:

He is a calm, gentle person who is very private" and "[D] is an introverted person He has a great deal of difficulty processing his emotions or simply expressing empathy He is a bright and definitively tenacious person [D] has difficulty asserting himself in situations involving confrontation.

One of the most singular observations is:

Nevertheless, one cannot readily see an explanatory pathway in his personal history for why such an individual would engage in sexual misconduct with his own children or why he would not be able to be a competent and loving parent.

I find nothing in the facts before me that would bring the case within s. 184(1)(e).

[16] Section 184(1)(f) has more relevance to this case; it requires consideration of "the at-risk family member's perception of risks to his or her own safety and security". There is a circularity to this term in that it requires the court to consider whether to make a protection order, it must accept that the applicant (or perhaps a child) is already at risk. In classic terms, then, it begs the question. Section 182 defines "an at-risk family member" as:

... a person whose safety and security is or is likely at risk from family violence carried out by a family member.

I cannot find any evidence of family violence to date, but Ms. Ellis was emphatic in submitting that J was, at the very least, "at risk from family violence " by D. She pointed to the obviously stressful confrontation between J and D on the evening of October 24 when D re-entered the home and refused to leave. She entered in evidence two e-mails sent at approximately 8:30 p.m. as confirmation of this. It should be remembered that the RCMP were called and eventually persuaded D to leave the home. I have read the e-mails and cannot find any corroboration either of family violence occurring, or that they indicate the likelihood of future family violence. I appreciate that violence that would trigger, say, an arrest by the RCMP is different than the broader definition in the FLA, but it does seem to me that if D was acting violently the RCMP would go farther in the matter than to use diplomacy (and, obviously, good sense) in persuading D to leave. As Ms. Specht submitted, and not to read too much into e-mails sent quickly in a stressful circumstance, both of J's e-mails said " D is trying to intimidate me " As Ms. Specht argued, whatever D was doing did not seem to intimidate J.

[17] Section 184(1)(f) is an important addition to the tools (and, actually, the mandate) of the court. While all other sections are objective, s. 184(1)(f) is subjective and demands that we see the circumstances through the applicant's eyes. It recognizes that not all applicants are created equal, and that an act or event that comes within the FLA's definition of family violence may have little effect on one person, but much more serious effects on another. That makes sense and permits the court to tailor a protection order (or, indeed, to decline to make the order) depending on the unique dynamics and history of each relationship and the unique personality or psychology of the parties to the relationship. That, however, does not permit the court to abandon all objectivity and to conclude that it must act on the perceptions of the applicant alone. I agree with Ms. Specht when she argues that that is a slippery slope.

[18] Were I to conclude that J had fabricated her allegations simply to gain advantage, it would be a simple matter to reject her view. I doubt that to be the case; I think her views are sincerely held (a view held by Dr. Aube, at p. 37 of her report), but to date completely uncorroborated or proven. What is the court to do in that circumstance? My view is that it is to recognize that at some point personal responsibility must come into play and that if, as here, the applicant feels vulnerable but independent agencies have investigated and found no basis for the fear, then she must be expected to act on her concerns and take steps herself (as she is absolutely entitled) to reduce the fears. In other words, rather than expect the court to impose sanctions and controls on D, she could remove herself and the children from the

home and establish her own and independent residence. Should D attempt to intrude into that residence he would obviously be prevented from doing so.

- [19] In this case, as in so many like it, we often do not really talk about what we are talking about. In other words a debate about who should occupy the home to the exclusion of the other is not always really about housing. Despite Ms. Specht's submission that D needs to reside in the home for financial reasons the fact is that the parties have substantial financial resources available. There is, for example, over \$650,000 in trust with counsel, more than enough to help the parties re-establish a residence, but at least D cannot (or more likely will not) agree to the release of any of that money if it means J would also receive funds. So in other words it's not about housing; it's about acceding even in small measure to the other's wishes or will. But if the parties cast the question as one of exclusive occupancy, then that is the context within which the court must consider the issue.
- [20] Finally, s. 184(g) obliges the court to consider "any circumstance that may increase the at-risk family member's vulnerability, including pregnancy, age, family circumstances, health or economic dependence." I will not repeat my comments on the circularity of this, too, but I see no evidence that any of the factors listed or similar factors will "increase vulnerability". Without doubt, I can conclude one thing - D's presence in or future attempts to enter the family residence is certain to engender stress, high feeling, and possibly (but only possibly) worse. It is entirely possible that he can predict J's response and that he knows she will be provoked to, in her view, an intolerable degree. Perhaps his strategy is to so provoke her that he becomes the victim. He would not be the first to strategize, consciously or unconsciously, to that end. He seems an intelligent man, and he must know that further confrontation is the potential result of his presence indeed, he is too intelligent to ignore that and bury it under an unlikely argument that he needs to live in the home for financial reasons.
- [21] But confrontation and the resultant stress do not necessarily constitute family violence. They constitute very unfortunate and regrettable circumstances that, however the individuals may feel about it, inevitably hurt both. People unnecessarily encouraging or provoking such events diminish themselves. But, again, to provoke or engage in arguments or demands, to press the other's patience, or to, in the parlance, "push their buttons" is not necessarily to engage in family violence. Simply put, the FLA proscribes any family violence, but it does not require of us that we be "nice people". This obviously does not limit the court in a subsequent application, should new facts emerge that establish that D, for example, in the future so provoked J in a manner that he must have known would so aggravate the situation that demonstrable risk or, worse, violence arose.

- [22] Ms. Ellis made at least two further submissions that must be addressed. In reply she argued that (and I paraphrase) 'there is a gender issue here' and that, basically, in every heterosexual relationship the man may so dominate the relationship, or is so capable of dominating, that intimidation is a likely result. I reject that perspective completely. At best it is unhelpfully general, but at worst it is sexist. Courts are and must be evidence-based. The court will find, or not, violence or its elements based on the evidence presented in each case.
- [23] The other submission came in reply to a question from the bench. I asked "where is the violence in this case" if no such allegations other than sexual abuse had been made or evidenced. She referred me to the hearing before Madam Justice Maisonville on October 10th which took most of the day and which focussed entirely on parenting. Ms. Ellis submitted that (and, again, I paraphrase) Madam Justice Maisonville 'felt there was enough in' or 'felt concerned enough about' the allegations of sexual abuse that she ordered supervised parenting time for D. For at least two reasons, then, I felt it essential that I review Madam Justice Maisonville's reasons. First, she may have noted something that I hadn't. Second, litigants are entitled to consistency from the court and it is inevitably frustrating to them and embarrassing to the court if two judicial officers draw different factual conclusions. Madam Justice Maisonville's reasons have not yet been transcribed, so I listened twice to the recording. I do not find anything in her reasons or remarks that support the submission that she either found any evidence of sexual abuse, or that she had apparent misgivings in that respect. Certainly, that is not the basis for the supervision term: her reasons begin (at 3:49 in the recording) noting simply that D consents to a supervision term, and then moved on to other aspects. Most specifically, she was concerned by two paragraphs in Dr. Aube's s. 211 report as, interestingly, was I during this hearing. At page 36 of her report Dr. Aube, in considering the possible source of J's beliefs, observed:

One possible, but at this stage highly speculative, explanation would be that the experience of pregnancy and birth, and the many inherent hormonal changes, may have aggravated an underlying propensity for anxiety which then resulted in a rare psychiatric disorder.

It is my opinion that [J]'s behaviour is consistent with a "Non-Bizarre Delusional Disorder" (DSM IV-TR and DSM-V). This disorder is a very uncommon psychiatric condition in which patients present with firm delusions, unshakable false beliefs that involves situations that could potentially occur in real life.

Both Maisonville J. and I wondered how Dr. Aube could characterize the cause as "highly speculative", yet conclude, apparently firmly, that J has the condition described. I agree with Madam Justice Maisonville's comments to the effect, however, that this and other aspects of the case would become clearer with cross-examination and possible critiques of Dr. Aube's report (apparently underway through the claimant's initiatives).

- [24] Madam Justice Maisonville did not express or imply reservations respecting whether or not D sexually abused the children. She did, however, explicitly say that she had doubts as to whether J's "psychological condition" had been established by the evidence, this in relation to her concerns, above. Not only did she not indicate reservations about the allegations, I infer that she drew a contradictory conclusion, indicated by three aspects of her reasons. First, she was clear that D could return the matter to court without having to demonstrate a change in circumstances. If she had concluded that inculpatory facts existed or were proven, surely she would want to see those facts negated. Second, she said twice that her intent was to "re-establish his relationship with the children" (at 3:53 on the tape) and "re-start the parenting relationship" (at 3:54). Finally, after further submissions from Ms. Ellis she declined to place any contingency, such as receipt of the critique reports of other experts, on D's right to return the matter to court. Given these comments, I cannot infer that she felt there was sufficient risk of the sexual abuse allegations being true that she directed supervision.
- [25] I have found, therefore, that there is no family violence to date, so that a protection order cannot follow. I will therefore not extend my October 31st order beyond November 8th. Exclusive occupancy, as I've indicated (para. 10 above) has a slightly different and more general standard - Is it a practical impossibility that the parties continue cohabitation? I think it's obvious that in J's mind it is. Clearly, however, in D's mind it is not. I have waxed on about J's sincere belief in the truth of her allegations against D. I have recited my conclusion that they are not proven to date and therefore not based in fact. But I accept that she does believe them. I accept, therefore, that in her mind she and the children cannot at present cohabit with D. To me that is akin to one person believing, in contradiction to the other's belief, that their differences are irreconcilable; in such a case the courts accept the irreconcilability<sup>[5]</sup> and do not require mutuality in the belief. Given D's unshakable belief I accept that it is a practical impossibility that the parties continue cohabitation. The second part of the test, then, applies the balance of convenience. There is little doubt in my mind that given the recent history of the marriage and given J's role, recently at least, as the primary parent, that the balance of convenience weighs in J's and the children's favour, and that she should have exclusive occupancy. That order will go.
- [26] In sum, then, there will be no extension of my October 31st order preventing D from attending at the family residence; the order will elapse November 8th. The claimant will, however, have exclusive occupancy of the residence.
- [27] Neither party has won a victory in this application. If either draws that conclusion from these reasons he or she is sorely wrong. Each was well-represented by counsel, who presented every argument and any evidence that could assist her client's position. The parties should continue to accept their counsel's advice and guidance and know that their counsel, while vigorously advocating their position, are trying to assist them in finding a solution to a very difficult problem.

D. C. Baker, M.

## Appendix

182 In this Part and the regulations made under section 248 (1) (d) [general regulation-making powers]:

"at-risk family member" means a person whose safety and security is or is likely at risk from family violence carried out by a family member;

"residence" means a place where an at-risk family member normally or temporarily resides, including a place that was vacated because of family violence.

## Orders respecting protection

183 (1) An order under this section

- (a) may be made on application by a family member claiming to be an at-risk family member, by a person on behalf of an at-risk family member, or on the court's own initiative, and
- (b) need not be made in conjunction with any other proceeding or claim for relief under this Act.
- (2) A court may make an order against a family member for the protection of another family member if the court determines that
  - (a) family violence is likely to occur, and
  - (b) the other family member is an at-risk family member.
- (3) An order under subsection (2) may include one or more of the following:
  - (a) a provision restraining the family member from
    - (i) directly or indirectly communicating with or contacting the at-risk family member or a specified person,
    - (ii) attending at, nearing or entering a place regularly attended by the at-risk family member, including the residence, property, business, school or place of employment of the at-risk family member, even if the family member owns the place, or has a right to possess the place,
    - (iii) following the at-risk family member, or
    - (iv) possessing a weapon or firearm;
  - (b) limits on the family member in communicating with or contacting the at-risk family member, including specifying the manner or means of communication or contact;
  - (c) directions to a police officer to
    - (i) remove the family member from the residence immediately or within a specified period of time,

- (ii) accompany the family member, the at-risk family member or a specified person to the residence as soon as practicable, or within a specified period of time, to supervise the removal of personal belongings, or
- (iii) seize from the family member any weapons or firearms and related documents;
- (d) a provision requiring the family member to report to the court, or to a person named by the court, at the time and in the manner specified by the court;
- (e) any terms or conditions the court considers necessary to
- (i) protect the safety and security of the at-risk family member, or
- (ii) implement the order.
- (4) Unless the court provides otherwise, an order under this section expires one year after the date it is made.
- (5) If an order is made under this section at the same time as another order is made under this Act, including an order made under Division 5 [Orders Respecting Conduct] of Part 10, the orders must not be recorded in the same document.

#### Whether to make protection order

184 (1) In determining whether to make an order under this Part, the court must consider at least the following risk factors:

- (a) any history of family violence by the family member against whom the order is to be made;
  - (b) whether any family violence is repetitive or escalating;
  - (c) whether any psychological or emotional abuse constitutes, or is evidence of, a pattern of coercive and controlling behaviour directed at the at-risk family member;
  - (d) the current status of the relationship between the family member against whom the order is to be made and the at-risk family member, including any recent separation or intention to separate;
  - (e) any circumstance of the family member against whom the order is to be made that may increase the risk of family violence by that family member, including substance abuse, employment or financial problems, mental health problems associated with a risk of violence, access to weapons, or a history of violence;
  - (f) the at-risk family member's perception of risks to his or her own safety and security;
  - (g) any circumstance that may increase the at-risk family member's vulnerability, including pregnancy, age, family circumstances, health or economic dependence.
- (2) If family members are seeking orders under this Part against each other, the court must consider whether the order should be made against one person only, taking into account

- (a) the history of, and potential for, family violence,
- (b) the extent of any injuries or harm suffered, and
- (c) the respective vulnerability of the applicants.
- (3) For the purposes of subsection (2), the person who initiates a particular incident of family violence is not necessarily the person against whom an order should be made.
- (4) The court may make an order under this Part regardless of whether any of the following circumstances exist:
  - (a) an order for the protection of the at-risk family member has been made previously against the family member against whom an order is to be made, whether or not the family member complied with the order;
  - (b) the family member against whom the order is to be made is temporarily absent from the residence;
  - (c) the at-risk family member is temporarily residing in an emergency shelter or other safe place;
  - (d) criminal charges have been or may be laid against the family member against whom the order is to be made;
  - (e) the at-risk family member has a history of returning to the residence and of living with the family member against whom the order is to be made after family violence has occurred;
  - (f) an order under section 225 [orders restricting communications] has been made, respecting the at-risk family member, against the family member against whom the order is to be made.

### **If child a family member**

185 If a child is a family member, the court must consider, in addition to the factors set out in section 184 [whether to make protection order],

- (a) whether the child may be exposed to family violence if an order under this Part is not made, and
- (b) whether an order under this Part should also be made respecting the child if an order under this Part is made respecting the child's parent or guardian.

[1] S.B.C. 2011 c. 25

[2] R.S.B.C. 1996 c. 128

[3] except for s. 226, which permits directions regarding rent, mortgage, utilities, taxes, or the like

[4] Rinta v. Rinta (1980) 19 B.C.L.R. 287

[5] Fong v. Fong (1981) 25 RFL (2d) 123

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