

CANADA / JUDGMENT

L.E.S. v. C.A.S.

2025 BCSC 2088

COURT

Supreme Court of British Columbia

DECIDED

20 August 2025

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2025 BCSC 2088 L.E.S. v. C.A.S.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

L.E.S. v. C.A.S.,

2025 BCSC 2088

Date: 20250820

Docket: E31603

Registry: Cranbrook

Between:

L.E.S.

Claimant

And

C.A.S.

Respondent

Before: The Honourable Madam Justice Lyster

in Chambers

Oral Reasons for Judgment

Counsel for the Claimant (appearing via videoconference on August 14 and in person on August 20, 2025):

K. Tse, K.C.

Appearing on his own behalf (appearing in person on August 14 and via videoconference on August 20, 2025):

C.A.S.

Place and Date of Hearing:

Nelson, B.C.

August 14 and 20, 2025

Place and Date of Judgment:

Nelson, B.C.

August 20, 2025

- [1] THE COURT: This is my oral ruling with respect to the issues relating to the parties' registered investments in this matter.
- [2] In my decision after summary trial dated June 26, 2025, cited at 2025 BCSC 1203, I addressed the parties' registered investments starting at para. 130. At para. 134, I stated that:
- [134] I accept L.E.S.'s submission that the statements and information provided by C.A.S. with respect to his investments are insufficient for the court to determine their value at the date of separation. They are also insufficient to establish the extent of any excluded property claims. She submits that the onus is on C.A.S. to establish any excluded property claims, that he has failed to discharge that onus, and that they should therefore be dismissed. While I am reluctant to prolong this litigation, and notwithstanding the fact that the onus is on C.A.S. to establish his excluded property claims, I have concluded that the just thing to do is to order further disclosure, rather than trying to determine these issues on the sparse evidentiary basis available. In doing so, I am providing C.A.S. with one additional opportunity to provide disclosure supporting any excluded property claims with respect to these investments.
- [3] At para. 135, I ordered that:
- [135] within 30 days of the date of this decision, each party is to provide the other with the August 2006, January 2022, and current complete statements for all registered investment accounts. If statements for those precise dates are not available, the statements closest to those dates are to be provided.

I went on to identify the accounts in respect of which disclosure was required.

- [4] At para. 136, I held:

[136] Subject to any valid exclusion for the value of these investment accounts at the date the parties began living together in a marriage-like relationship, the parties shall equalize every one of their registered investment accounts, in specie as at the date of separation, such that the current fair market value of those in specie holdings is equalized via spousal rollover.

[5] And then finally, at para. 137, I directed that:

[137] Should there be any dispute about the amount of any exclusion or the value of these investments, either party is at liberty to apply to appear before me to resolve any disputes,

And that is what brings us to today.

[6] Since the date of my decision, the parties have disclosed documents to one another relating to these investments. While that disclosure may not be complete in all respects, I am satisfied that I am now able to decide the outstanding issues with respect to the division of the parties' registered financial assets.

[7] Counsel for L.E.S. created a chart, which is found at the beginning of what has been marked as Exhibit B in this hearing. In that chart, she laid out L.E.S.'s position on these issues with reference to various source documents that had been disclosed between the parties.

[8] C.A.S.'s chief areas of disagreement with L.E.S.'s position as laid out in that chart were:

1. that some excluded property claims that he made were not included;
2. he questioned the relevance of the value of the parties' investments at or around the date the decision was released and/or this hearing; and
3. he questioned the adequacy of L.E.S.'s disclosure with respect to her two registered accounts.

[9] I will deal with each of those areas raised by C.A.S. in turn.

[10] Dealing first with exclusions. C.A.S. claims an exclusion in the amount of \$3,891 in respect of his [company name omitted] holdings. L.E.S. accepts that exclusion. It is proven on the documents disclosed, and I find that C.A.S. is entitled to an exclusion in the amount of \$3,891.

[11] C.A.S. claims an exclusion of \$13,219.19 with respect to his CIBC investment account ending 0310. L.E.S. initially opposed any exclusion in relation to this account, essentially on the basis that it had not been proven that the accounts prior to the time the parties began living together in a marriage-like relationship were the same account that C.A.S. held as of the date of separation. However, having heard C.A.S.'s submissions in reply, counsel for L.E.S. submitted that they accepted an exclusion in the amount of \$10,721.09, and that amount on the basis of page 7 of 12 of a statement provided by C.A.S. as of March 31, 2006.

- [12] The difference between those two amounts, that is the \$13,219.19 and \$10,721.09, is largely, although not entirely, made up by C.A.S.'s non-registered investment, which was in the amount \$1,395.09 as of March 31, 2006. C.A.S. submits that this was a GIC that matured on February 24, 2010, and that it was automatically rolled into his mutual funds on that date. There is no documentary evidence before the court to substantiate that that is what happened to that GIC in February 2010. The amount cannot be traced. I, therefore, find that C.A.S. has not met his onus of establishing an exclusion for the amount of the GIC.
- [13] Based on page 1 of the March 31, 2006 statement, I find that C.A.S. is entitled to an exclusion of \$10,990.81 in respect of the CIBC account. I do not know why that is different from page 7 of that statement, but I am giving C.A.S. the benefit of the doubt for the roughly \$200 difference to be found there.
- [14] I turn to the legal issue with respect to the relevance of the increase in value of the parties' various holdings post-separation. L.E.S. calculated the value of the various funds to be divided as family property on the basis of the roughly present value of the units each party held in their accounts as of the date of separation. C.A.S. disagrees with that approach. He submits that the family property to be divided should be based strictly on the value of the holdings as of the date of separation.
- [15] I agree with L.E.S. on this issue for two reasons. The first is that I held in para. 136 of the decision that:
- [136] . the parties shall equalize every one of their registered investment accounts, in specie as at the date of separation, such that the current fair market value of those in specie holdings is equalized via spousal rollover.
- [16] As we have clarified in the course of this hearing, this is not a reopening or a variation application; rather, this is a hearing to determine the meaning and consequences of the decision I made.
- [17] However, even if I was considering an application to reopen or a variation or a reconsideration, s. 87 of the Family Law Act, S.B.C. 2011, c. 25 would govern, which provides::

Valuing family property and family debt

87 Unless an agreement or order provides otherwise and except in relation to a division of family property under Part 6,

- (a) the value of family property must be based on its fair market value, and
- (b) the value of family property and family debt must be determined as of the date
 - (i) an agreement dividing the family property and family debt is made, or
 - (ii) of the hearing before the court respecting the division of property and family debt.

- [18] Given that it is now that I am making my decision with respect to the value of this portion of the family property, it is appropriate for the division to be based upon the fair market value of that property as of today's date, or as close thereto as the materials before me permit. I will note that this does cut both ways because fortunately both parties' investments have in fact increased in value since the date of separation, and so that increase in value will apply with respect to the division of both C.A.S.'s and L.E.S.'s holdings.
- [19] The third issue that I had mentioned that C.A.S. raised had to do with the adequacy of L.E.S.'s disclosure with respect to her two registered accounts. In my view, she has provided sufficient disclosure for me to be able to assess the value, and I note that, unlike in respect of certain of C.A.S.'s accounts, there was no exclusion claimed. So really, the court only needed to concern itself with the value as of the date of separation and the value as of now.
- [20] A couple of further notes. In respect of C.A.S.'s CIBC investment ending 0301, the documents show that its value at separation was \$62,397.22, and its value as of June 30, 2025 was \$80,193.90. There is no evidence before me that the increase in the value of that investment was due to C.A.S. purchasing additional investments as opposed to the holdings that he had as of the date of separation increasing in value due to market forces. I accept L.E.S.'s submission that it is properly subject to division as of the June 30, 2025 value.
- [21] Then last, dealing with the [company name omitted]-managed account, GRSP, I think it is fair to say it remains somewhat mysterious. C.A.S. submitted a managed account statement for January 1, 2021 to December 31, 2022. It shows on page 6 of 28, under the heading, "Details of Your Managed Account GRSP," Employer, your employer is [name omitted]. Under the heading, "Your [company name omitted] RRSP contributions," the amount contributed in the first 60 days of 2021, \$4,757.29. Amount contributed in the rest of 2021, \$1,050. So that is a total of \$5,827.29 in employer contributions in 2021.
- [22] C.A.S. says that his understanding is that this is included in his total [company name omitted] investments, which he says, as of January 17, 2022, were in the amount of \$135,738. From my review of the statement I have just referred to, I do not believe that that is correct.
- [23] Page 2 of the statement says, "Your account consists of: (1) your [company name omitted] holdings and (2) your other [company name omitted] holdings," and that those two things together constitute 100% of your account, and then it provides a closing balance on that same page of \$139,243.05.
- [24] If I go to page 5 of that same statement, under the heading, "Details of your [company name omitted] holdings," there is a number of funds listed, and the total market value of those is listed as being \$130,321.04. Also on that page there is a heading that says, "Details of your other [company name omitted] holdings," and that continues over on to the next page, page 6 of 28, and it shows that your total other holdings are \$8,922.01. If I add those two figures together, I get a figure of \$139,243.05, the same as the closing balance provided on page 2.

- [25] Page 6, however, continues after all of that, "Details of your Managed account GRSP", and I have already referred to this, it gives not a market value, it gives amounts contributed, I take it by C.A.S.'s employer.
- [26] On my reading of the documentary evidence before me, the managed GRSP is separate and apart from the [company name omitted] and the other [company name omitted] holdings. It appears, on the evidence that I have, that number, \$5,827.29, is made up solely of employer contributions, and if that is true then employer contributions post the date of separation are irrelevant. It would only be employer contributions up to the date of separation, which would be important. However, the increase in value, if any, of the employer contributions would be subject to division.
- [27] On the evidence before me, I find that the GRSP as of the date of separation had employer contributions of \$5,827.29. That is family property to be divided equally. I do not know the mechanism for doing that and I am going to leave that to the parties. If they are unable to agree they may request to appear before me with respect to that specific question within 60 days.
- [28] That concludes my oral ruling with respect to the registered investments.

"L.M. Lyster J."

LYSTER J.

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