

CANADA / JUDGMENT

Lu v. Shen

2020 BCSC 993

COURT

Supreme Court of British Columbia

DECIDED

6 July 2020

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2020 BCSC 993 Lu v. Shen IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Lu v. Shen, 2020 BCSC 993 Date: 20200706 Docket: S163264 Registry: Vancouver Between: Jing Lu Plaintiff And: Qinqin Shen aka Qin Qin Shen aka Catherine Shen Defendant Before: The Honourable Madam Justice Adair Reasons for Judgment on Costs The Plaintiff appearing in person: Jing Lu The Defendant appearing in person: Qinqin Shen aka Catherine Shen Written submissions received from the Plaintiff: June 12, 2020 Written submissions received from the Defendant: June 23, 2020 Place and Date of Judgment: Vancouver, B.C. July 6, 2020

- [1] On April 1, 2020, I issued Reasons for Judgment in this action. My Reasons are indexed at 2020 BCSC 490. I summarized my disposition of the proceedings beginning at para. 301. At para. 304, I wrote:
- [304] With respect to costs, subject to any submissions the parties may wish to make, I consider that neither party has been substantially successful, and therefore I make no order with respect to costs. If the parties wish to make submissions concerning costs, I direct that submissions be made in writing. The written submissions of each party shall be no more than 10 pages, double-spaced and using a font size no smaller than 12 point (except for quotations). Any affidavit evidence shall be limited to 20 pages, including exhibits. Ms. Lu's material shall be filed and served by not later than June 15, 2020. Ms. Shen's material shall be filed and served by not later than June 30, 2020.
- [2] I have now received submissions on costs. Somewhat unfortunately, with respect to content, neither Ms. Lu nor Ms. Shen followed the directions in para. 304 of my Reasons, which were intended to permit any issues concerning costs to be dealt with efficiently.
- [3] Ms. Lu filed a 10 page written submission, and, on June 15, 2020, filed a 20-page affidavit (including exhibits). However, in addition to this affidavit, Ms. Lu also relied on affidavits she had sworn during the course of the litigation (her Affidavits Nos. 1, 3, 4 and 5) to support her position on costs.
- [4] On the other hand, Ms. Shen filed no affidavit evidence. Instead, she took my directions as allowing her to file 10 pages of what she described as "text" plus a 20-page "attachment." The "text" revisits matters that were before me at trial and sets out Ms. Shen's views and

commentary about the trial and the Reasons for Judgment. The "attachment" (especially pp. 4-20) is, for the most part, simply additional argument, expanding on the topics in the "text." Page 3 of the "attachment" has a brief submission on costs (although, with respect, much of it is misconceived). Pages 1 and 2 of the "attachment" are an improper attempt by Ms. Shen to submit evidence.

- [5] In any event, I have reviewed the material filed by both parties.
- [6] Rule 14-1(9) provides that costs of a proceeding "must be awarded to the successful party unless the court otherwise orders."
- [7] Doing my best to identify the relevant points in the parties' submissions, I draw the following conclusions concerning their respective positions.
- [8] Ms. Lu argues, essentially, that the court should "otherwise order," and that Ms. Shen should be deprived of her costs (leaving Ms. Lu as the only party entitled to costs) because of Ms. Shen's conduct during the litigation, which, in Ms. Lu's submission, substantially increased Ms. Lu's costs and expenses. On the other hand, Ms. Shen argues, essentially, that Ms. Lu should be deprived of her costs (leaving Ms. Shen as the only party entitled to costs) because Ms. Lu used the court and these legal proceedings for an improper purpose, to further intimidate and harass Ms. Shen. (I note that this is not consistent with the findings and conclusions in my Reasons.)
- [9] However, in my view, neither Ms. Lu nor Ms. Shen has provided a convincing basis to "otherwise order," or to modify my original ruling with respect to costs.
- [10] Here, each of Ms. Lu and Ms. Shen was successful in establishing defamation and breach of privacy claims against the other, and obtained a remedy. (The claims of each of them for damages for intentional infliction of emotional distress were dismissed.) I consider the small difference in the damages awarded as between Ms. Lu and Ms. Shen to be immaterial. In that sense, each of them was successful. However, neither was more successful, compared to the other. Moreover, in my view, the matters referred to in the submissions on costs, in the circumstances of these proceedings, do not justify depriving either party of her costs as a party who established liability and obtained a remedy against the other party.
- [11] Finally, I find nothing in the material submitted by Ms. Lu and Ms. Shen on costs that persuades me that either party was substantially successful, as compared to the other, so as to justify an award of costs exclusively in that party's favour.
- [12] Accordingly, I confirm my original order. I make no order with respect to costs, with the result that each party shall bear her own costs.
- [13] I will direct the registrar to prepare the formal order resulting from these reasons, and the approval by the parties as to the form of order is dispensed with. "Adair J."

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Prepared on 29 October 2026 · Esheria