

CANADA / JUDGMENT

M. W. B. v. A. R. B.

2012 BCSC 911

COURT

Supreme Court of British Columbia

DECIDED

21 June 2012

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2012 BCSC 911 M. W. B. v. A. R. B. IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: M. W. B. v. A. R. B., 2012 BCSC 911 Date: 20120621 Docket: 20547 Registry: Cranbrook Between: M. W. B. Claimant And A. R. B. Respondent Before: The Honourable Mr. Justice N. Brown
Supplementary Reasons for Judgment Counsel for Claimant: In Person Counsel for Respondent: In Person Place and Date of Hearing: Kamloops, B.C. June 1, 2012 Place and Date of Judgment: Cranbrook, B.C. June 21, 2012

- [1] The parties appeared before me again on June 1, 2012 to deal with some matters that have come up since I handed down my reasons for judgment on December 5, 2011.
- [2] In his application the claimant sought the following relief:
- a) sole conduct of the sale of the commercial property due to the respondent's continued refusal to cooperate or market the property with a real estate agent at a realistic price;
 - b) an order requiring the respondent to take the children counselling;
 - c) an order requiring the respondent to permit the children to travel on their own for access,
 - d) an order setting access for 2012, which access the respondent must adhere to;
 - e) an order that Dr. Le Torres provide an update to his section 15 report as a result of the continued actions of alienation that have been occurring by the respondent since the trial ended and the impact that this has been having on his relationship with the children or as a minimum oversee the counselling with the children with the current counsellor;
 - f) an order that the respondent provide him with her bank information to allow direct deposit of child support funds
 - g) an order for double costs based on his offer to settle delivered before trial
 - h) an order that if he is sued by Honda finance that both parties share the cost; and special costs post judgment; and
 - i) clarification whether "entitlements " referred to in my reasons includes costs.

- [3] I dealt with all these items in oral reasons save for the question of entitlements, double and special costs and e), the matter of the s.15 report. These supplementary reasons will deal with those and add comments additional to those made orally at the hearing.
- [4] I advised the parties at the hearing that I would confirm if I have jurisdiction to direct that the costs for Dr. Le Torre to update his report be paid by the Attorney General. The answer is, I do not have that jurisdiction. A government funded service located in Abbotsford does prepare s. 15 reports through its own staff at no cost to the parties. But as for Dr. La Torre, the parties will have to make their own arrangements and bear the cost themselves on a pro rata basis
- [5] An "entitlement" does include costs ordered by the court.
- [6] As regards double costs and special costs relating to post judgment conduct, as I mentioned at the hearing, I prefer to wait until matters conclude, inclusive of sale of the commercial property, before making final disposition on costs. I did neglect to mention, however, that the claimant is entitled to the costs of the hearing in Kamloops.
- [7] The claimant is clearly entitled to costs of the registrar's hearing if not already ordered. The draft approved was identical to the one submitted. What both parties asked for was reasons for judgment, not suggestions to argue over. The respondent's position was not reasonable and occasioned unnecessary delay.
- [8] Counselling was suspended for the summer, but that may be reconsidered if circumstances, such as a recommendation by Dr. Le Torres, warrant it.
- [9] I understand there are no middle schools where the children live and that WB will be attending his current school for another year. The father did not clearly state his current position regarding principle residence, but if he intends to wait until W.B. is entering his first junior year, then his application for a change in principle is adjourned.
- [10] At the hearing, I ordered that the claimant is to assume sole conduct of sale of the commercial property. The order should also provide that the respondent's permission is not required for access to the property and that she is to provide a key for the realtor and the claimant, if such is required. The order should also provide she is not to interfere with sale, which will require final approval, at which time any further orders relating to costs can also be disposed of.
- [11] I should also confirm my finding that the claimant's materials demonstrate a continuation of the obstructionist conduct fully discussed in my reasons for judgment.
- [12] I confirm again in these brief additional reasons what I made clear during the trial, in my reasons and at the hearing in Kamloops: the principle resident parent is legally bound to encourage and facilitate access by the other parent. This is specially so when distance and time available renders access more challenging than normal.

- [13] The wishes of the children regarding access may be considered, but they do not dictate the decision. They are not adults and they do not dictate to the parents or to the court access conditions, such as whether they must always visit the other parent with their sibling. A reasonable parent can easily see the benefit of each of the children having some time alone with the other parent. Court ordered access is not a recommendation or suggestion. It represents the considered judgment of the court, which the principle resident parent must respect it and see it carried out, except insofar as the parties agree to vary it or the court does.
- [14] The same legal obligation applies to any other court orders. Lest there be doubt, conduct that effectively constitutes a breach of a court order is a serious matter. "N. Brown J."

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