

CANADA / JUDGMENT

Malick v. McCullough

2023 BCCA 190

COURT

British Columbia Court of Appeal

DECIDED

2 May 2023

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2023 BCCA 190 Malick v. McCullough COURT OF APPEAL FOR BRITISH COLUMBIA Citation: Malick v. McCullough, 2023 BCCA 190 Date: 20230502 Docket: CA48798 Between: Faisal Malick Appellant (Defendant) And Shelley McCullough Respondent (Plaintiff) Before: The Honourable Mr. Justice Groberman The Honourable Mr. Justice Hunter The Honourable Mr. Justice Abrioux On appeal from: An order of the Supreme Court of British Columbia, dated December 7, 2022 (McCullough v. Malick, 2022 BCSC 2134, Vancouver Docket S221469). Oral Reasons for Judgment Counsel for the Appellant: S. Batkin No one appearing on behalf of the Respondent Place and Date of Hearing: Vancouver, British Columbia May 2, 2023 Place and Date of Judgment: Vancouver, British Columbia May 2, 2023 Summary: The parties, having reached an agreement resolving legal differences, seek to have the appeal allowed by consent. Held: Appeal allowed. There is no indication that the order is being sought for an improper purpose. Granting it would not bring the administration of justice into disrepute. The Court, in allowing the appeal, is not expressing any opinion on its legal merits.

- [1] GROBERMAN J.A.: The parties to this appeal have reached an agreement resolving their differences and ask that the Court allow the appeal "by consent".
- [2] Settlements are to be encouraged, and, to that end, this Court has in the past, allowed appeals by consent where the parties have resolved their differences: see, for example, *Suomalainen v. Jernigan*, 2004 BCCA 652; *The Owners, Strata Plan KAS 2503 v. Kelly*, 2013 BCCA 245; and *Kubota v. Kubota*, 2022 BCCA 41.
- [3] There is nothing in this case to suggest that the order being sought would bring the administration of justice into disrepute, or that it is being sought for an improper purpose. Accordingly, I would allow the appeal and dismiss the action.
- [4] I would observe that this disposition is made without reference to the legal merits of the appeal, which have not been addressed before us. The disposition of the appeal should not be taken as expressing agreement or disagreement with the decision of the judge below. The order is being made solely for the purpose of vacating the order and giving effect to the parties' settlement so that their legal dispute is brought to an end.
- [5] HUNTER J.A.: I agree.

[6] ABRIOUX J.A.: I agree.

[7] GROBERMAN J.A.: The appeal is allowed. "The Honourable Mr. Justice Groberman"

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