

CANADA / JUDGMENT

Mau v. G.A. Consulting Services Inc.

2020 BCSC 125

COURT

Supreme Court of British Columbia

DECIDED

7 January 2020

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2020 BCSC 125 Mau v. G.A. Consulting Services Inc. IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Mau v. G.A. Consulting Services Inc., 2020 BCSC 125 Date: 20200107 Docket: S188110 Registry: Vancouver Between: Diana Nam H. Mau, Christina Mau Nowik, Joanna Mau Nowik and Diana Mau Financial Corporation Plaintiffs/ Defendants by Counterclaim And G.A. Consulting Services Inc. Katie Mak Accounting Corp. and Diana Mau Corporation Defendants/ Plaintiffs by Counterclaim Before: The Honourable Mr. Justice Macintosh Oral Reasons for Judgment Counsel for Plaintiffs/Defendants by Counterclaim: S.M. MacKenzie Counsel for Defendants/Plaintiffs by Counterclaim: J.K. Bienvenu Place and Date of Trial: Vancouver, B.C. January 7, 2020 Place and Date of Judgment: Vancouver, B.C. January 7, 2020

- [1] These brief reasons address the Defendants' argument that the Plaintiffs' case is not suitable for disposition by summary trial. The Plaintiffs' summary trial application was set for today and scheduled for one day only.
- [2] Having heard the Plaintiffs' review of the evidence and facts for most of this morning, and in part this afternoon, and now having also heard the parties' submissions as to suitability, I have concluded in the circumstances set out below, notwithstanding Mr. MacKenzie's able submissions, that it would be unjust to proceed further by summary trial in this complex case, and that the Plaintiffs' summary trial application ought not to proceed further.
- [3] The three personal Plaintiffs are a mother, who is an accountant, and her two daughters, who, with their mother, are the three shareholders in the mother's accounting business.
- [4] By a share purchase agreement, the three personal Plaintiffs were to sell their shares in the accounting business to the first two named Defendants. The Plaintiffs now sue primarily for non-payment on the sale of their shares, but additional relief is also sought. The Defendants defend and counterclaim because they allege the first Plaintiff, Ms. Mau, failed to deliver to the Defendants the accounting clients she had allegedly promised to deliver, refused to sign a consulting agreement, and otherwise breached the share purchase agreement.

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- [5] Counsel for both sides agree that the written share purchase agreement is "far from perfect" in its clarity. In addition to the share purchase agreement itself, the case requires the consideration of draft agreements, oral agreements, and the Plaintiffs' claim for rectification of clause 3.2(a) in the share purchase agreement in accordance with para. 23 pleaded in the amended notice of civil claim.
- [6] There are two practical considerations which form an important part of the basis for my conclusion.
- [7] First, in my view, the summary trial application could not conclude in only one day. Two days would be required, and I believe even that would be a tight estimate. By midday today, the Plaintiffs had not quite concluded their review of the evidence and facts, and had not begun their legal submissions. The suitability submissions only began at about 12:15 midday. They continued at 2:00 p.m. The Defendants' case on the merits has not yet begun. I add that the Plaintiffs' review of the evidence and facts has progressed as far as it has only because Plaintiffs' counsel, who is fully on top of his brief, packed an enormous amount of complex information into the time he had. I should add too, as another reality, that I am hearing another matter tomorrow, and I am then away until January 27th, followed by other court commitments on my return.
- [8] The second practical point is that the parties have reserved a five-day trial for this matter beginning in approximately two months, that is, on March 9, 2020.
- [9] From the time Inspiration Management was decided by our Court of Appeal in 1989, this Court has proceeded to employ the summary trial rules robustly.
- [10] However, there clearly are cases, of which this is one, where the Court would be greatly assisted by hearing from the key witnesses. When it is kept in mind that five trial days are available just two months from now, I believe it would be unjust not to hear from those witnesses in the hope of turning complex facts into facts that are more readily understandable. In particular, as one example, a judge will want to have a better understanding of whether both sides were properly performing their obligations around the consulting agreement, whether written or oral.
- [11] I am mindful of the cost of a five-day trial, but the sums at issue here are not trivial, and the pretrial steps, including several discoveries, have already occurred.
- [12] The remainder of these reasons are subject to the directions of the trial judge, who may disagree with and override what I set out below depending on her or his assessment as the case nears trial.
- [13] I recommend that counsel, with my support, seek a case management conference before the judge who will hear the trial.
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- [14] I also recommend that the trial be a hybrid trial, so that evidence is introduced by both affidavit and oral evidence. The three volumes of materials before me today would form part of the evidentiary record. In addition, each side could call one witness, probably Ms. Mau for the Plaintiffs and Ms. Fong or Ms. Mak for the Defendants.
- [15] I will ask Mr. MacKenzie to keep my copy of the three volumes of evidence used today and give them to the trial judge as her or his copy to use at trial if the judge decides to proceed as I have recommended above.
- [16] Costs of today are costs in the cause. "Macintosh J."
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Prepared on 24 October 2026 · Esheria