CANADA / JUDGMENT

Parfitt v. Parfitt

2014 BCSC 1273

COURT
Supreme Court of British Columbia

DECIDED
10 July 2014

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2014 BCSC 1273 Parfitt v. Parfitt IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Parfitt v. Parfitt, 2014 BCSC 1273 Date: 20140710 Docket: E024639 Registry: New Westminster Between: Corrina Parfitt, also known as Cori Lynne Parfitt Claimant And Kenneth Daniel Parfitt Respondent Before: The Honourable Mr. Justice Ball Reasons for Judgment Counsel for Claimant: A. Florescu, Articling Student Counsel for Respondent: D.P. Kuhn Place and Date of Hearing: New Westminster, B.C. June 26, 2014 Place and Date of Judgment: New Westminster, B.C. July 10, 2014

[1] This matter came on for hearing on an application that surrounded child support. Mr. Parfitt's present income has fallen dramatically due to circumstances that I will detail below.

[2] As a result he is seeking three orders; first, that arrears be cancelled; second that his present Guideline Income be fixed at $26,000, and third, that he be required to pay child support of $672 per month commencing on the 1st of July 2014. I have made the second and third orders in court so that there was some certainty as the matter moved ahead.

[3] I also made an order that the two youngest children be interviewed by a family justice counsellor in Abbotsford, British Columbia for the purposes of preparing a report. The parties agreed to adjourn an application involving a contempt citation.

[4] The matter remaining for decision is the question of whether arrears of child support should be cancelled.

[5] Mr. Parfitt is 42 years old and was employed as a clerk for a grocery store. He was being paid about $25 per hour and was making a Guideline income of just over $50,000 per year. He had held in that position for many years. It was a secure position, but he was frustrated by the fact that he was working with much younger people who were being paid substantially less than he was. There was some pressure from his employer to take the buy-out that was being offered to him.

[6] Rather than continue in a field with which he was familiar, he decided to buy a franchise using the buyout money, borrowed money, and a promissory note of approximately $120,000. He went into a franchise in the fish and chips business.

[7] He quickly learned there were many more costs than he had anticipated and was unable to make money. Effectively he lost all of his savings, RRSP's and the buyout amount of some $50,000. He ceased to make payments. He essentially had no income because of the losses in the business and its ultimate failure in 2012 and 2013. The failure notwithstanding Mr. Parfitt worked very long hours in the fish and chips business.

[8] The table prepared by the Family Maintenance Enforcement Program shows that he currently has arrears of some $21,000. More recently he has, after a period of unemployment, returned to employment, presently as a general labourer working for rebar manufacturer. His income has increased while working a few months for the rebar manufacturer, and from the instructions given to his counsel, I have imputed income of $26,000 per year resulting in the order for the ongoing maintenance payment for four children of $672 per month.

[9] The question remains in these circumstances should the arrears be cancelled. Counsel provided the cases of Earle v. Earle, 1999 BCSC 283; Hanson v. Hanson, [1999] B.C.J. No. 2532; M.A.M. v. J.H.K.M. et al., 2005 BCSC 1796; Burgie v. Argent, 2014 BCSC 364, and Girard v. Girhard, 2006 BCCA 482.

[10] Having reviewed the circumstances of this case and all the provided cases and all counsel's submissions, Mr. Parfitt made a very unwise decision to exhaust his buyout monies, his RRSP and his other savings in a venture in which he had no experience. I have no doubt that he intended to make more money than he was making in the grocery store as a clerk, and he never had any intention of losing his money.

[11] But his decision to make that investment, however, was very unwise and he now asks that the $21,000 in arrears be cancelled. Based on the law aforesaid, I am of the view that the very high threshold, that it would be grossly unjust not to cancel the arrears, has not been met, and it would be inappropriate in circumstances where his income was continuing to rise and will do so in the foreseeable future. In my view, his family, in particular his children should not bear the brunt of his ill-conceived business venture. "Ball J."

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