

CANADA / JUDGMENT

Sahota v. Sandhu

2012 BCSC 552

COURT

Supreme Court of British Columbia

DECIDED

17 April 2012

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2012 BCSC 552 Sahota v. Sandhu IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Sahota v. Sandhu, 2012 BCSC 552 Date: 20120417 Docket: S133223 Registry: New Westminster Between: Iqbal Kaur Sahota, Harminder Kaur Dale and Hira Singh Sandhu Petitioners And Iqbal Singh Sandhu, Kultar Singh Sandhu and Rashpal Singh Sandhu Respondents Before: The Honourable Mr. Justice Crawford Reasons for Judgment Counsel for the Petitioners: P.S. Virk Respondent Iqbal Singh Sandhu: In Person Place and Date of Hearing: New Westminster, B.C. February 14, 2012 Place and Date of Judgment: New Westminster, B.C. April 17, 2012

Introduction

- [1] The six parties are the children of the late Sarwan Singh Sandhu, who died on September 5, 2008 in Terrace, B.C. No valid will was found.
- [2] The respondent Mr. Iqbal Singh Sandhu was appointed administrator of the estate on November 12, 2009. The assets of the estate are principally the house and land located at Haugland Avenue in Terrace, B.C. ("the Haugland Property").
- [3] Mr. Sandhu has allegedly failed to carry out his duties as administrator and the children of the deceased have in effect taken sides, with the three petitioners now seeking to remove Mr. Sandhu as the administrator of the estate; to have the estate put in the name of the administrator; to have the house sold; and the proceeds divided. As well, the petitioners require an accounting from Mr. Sandhu and seek special costs against him for his failure to comply with his duties as administrator. Chronology
- [4] The respondent Mr. Sandhu was appointed administrator of the estate on November 12, 2009.
- [5] On June 17, 2010, Mr. Sandhu brought a motion to be appointed trustee of the deceased's estate.

- [6] In July 2010 the petitioners, through their solicitor, wrote to Mr. Sandhu suggesting the Haugland Property be sold forthwith, expressing their concern that Mr. Sandhu was collecting rent from that property, and seeking details and an accounting of the estate administration. As well they queried why Mr. Sandhu was seeking to place a loan on the Haugland Property. The letter also raised questions about possible estate assets in India and the administration thereof.
- [7] Mr. Sandhu replied acknowledging that he had rented the Haugland Property, but the renting was now in the hands of Remax Terrace, and he had received five cheques to date.
- [8] In August 2010, Mr. Sandhu wrote to the petitioners' solicitor, noting that the petitioner Hira Sandhu had been in occupancy of the residence for several years, starting in 2004, before the death of their father, until September 5, 2009. Mr. Sandhu noted the 2009 taxes (of \$3,507.13) remained unpaid. In addition, the hydro and gas bills were unpaid. Mr. Sandhu reported on income and expenses to date and noted his concerns about missing chattels and previous family loans. However, at the conclusion of his letter, Mr. Sandhu indicated he would step down as administrator of the estate, as requested.
- [9] Correspondence then ensued as to Mr. Sandhu's resignation and it was suggested that Mr. Sandhu's son, a lawyer, could assist him with the necessary documentation.
- [10] In October 2010, the petitioners' solicitor requested that Mr. Sandhu forward his affidavit of resignation as administrator and his consent to Ms. Sahota becoming the administrator. Consent to Ms. Sahota's appointment as administrator was obtained from petitioners Hira Singh Sandhu and Harminder Kaur Dale, but not from the other three siblings, the named respondents. A lack of progress with the appointment led to an application by Ms. Sahota to become co-administrator of the estate with Mr. Sandhu.
- [11] On May 11, 2011, Fitzpatrick J. made that order, ("Fitzpatrick J.'s Order") which stated:
1. Iqbal Kaur Sahota be appointed as the co-administrator of the Estate of Sarwan Singh Sandhu, Deceased;
 2. the title of the land located at 4446 Haugland Avenue, Terrace, BC, V8G 1G1 and legally described as PID: 005-869-072, Lot B District Lot 360 Range 5 Coast District Plan 9693, be amended to include Iqbal Kaur Sahota as the co-administrator of the Estate of Sarwan Singh Sandhu, Deceased;
 3. the signature of the Respondents to this Order is hereby dispensed with;
 4. counsel for the Petitioners shall provide a draft of this Order to the Respondents;
 5. costs of this application are against the Estate of Sarwan Singh Sandhu.

- [12] In filing the order, it was discovered that Mr. Sandhu had transferred title to the Haugland Property from himself as administrator, to himself personally on July 12, 2010. The petitioners' solicitor wrote to Mr. Sandhu requesting that he transfer the Haugland Property back into his name as administrator of the estate. A caveat was filed against title of the Haugland Property on May 26, 2011 and served on Mr. Sandhu by letter of June 9, 2011.
- [13] On July 6, 2011, the petitioners forwarded a Form A Transfer to Mr. Sandhu so that title could be put in the names of the co-administrators in accordance with Fitzpatrick J.'s Order.
- [14] On July 8, 2011 Mr. Sandhu wrote back, saying he had put the title in the names of all six siblings.
- [15] On August 3, 2011 the petitioners' solicitors sent another Form A Transfer for all six siblings to sign. Mr. Sandhu responded on August 3, 2011 saying, inter alia, "I did nothing improper".
- [16] The petitioners' solicitor then returned to this Court to amend the petition and seek other relief. On September 14, 2011, Arnold-Bailey J. ordered, inter alia, that the contempt application against Mr. Sandhu for breach of the court order be adjourned; that the title to the Haugland Property be transferred to Mr. Sandhu and Ms. Sahota as co-administrators; that a CPL be registered on title; and that costs be awarded against Mr. Sandhu at Scale B ("Arnold-Bailey J.'s Order").
- [17] The amended petition then was filed and served but no response has been filed by the three respondents.
- [18] On January 5, 2012, the petitioners' solicitor again forwarded a Form A Transfer to Mr. Sandhu, advising him that he would be solely responsible for the \$2,900 property transfer tax that would be incurred. The solicitor also advised that a realtor was prepared to list the property which has a potential market value of \$239,000-\$245,000, and that failure to assist in selling the Haugland Property would result in the petitioners seeking an award of special costs against Mr. Sandhu. Discussion
- [19] Mr. Sandhu acted in breach of his duties as administrator, firstly, in transferring title to himself; and secondly, in transferring title to the six siblings after Fitzpatrick J.'s Order. I note that the title now reflects that all six siblings have an interest in the Haugland Property; the four male siblings are said to be 7/30 owners, while the two females hold 1/30 each, an interesting interpretation of the equal interests held by these six beneficiaries.
- [20] Mr. Sandhu attended Court on February 14, 2012. He had been personally served with the petition at bar. He filed a two-page argument that does nothing to excuse his behaviour. Therefore, I find him in contempt of Fitzpatrick J.'s Order.

Orders

- [21] The petitioners are entitled to the orders sought. As well, Mr. Sandhu is to pass his accounts within 60 days of this Order.

- [22] I will further vary Arnold-Bailey J.'s Order such that that order will provide that the Registrar of Titles is ordered to transfer the Haugland Property from the names of the six siblings to the petitioner Ms. Sahota as Administrator of the Estate, and that the requirement of the transferors' signatures to the Form A Transfer is dispensed with.
- [23] In the circumstances, given Mr. Sandhu's flagrant failure to observe his responsibilities as administrator of the estate, and his failure to abide by Fitzpatrick J.'s Order, the petitioners are entitled to their special costs as against Mr. Sandhu. Once those costs are taxed, they may be registered against Mr. Sandhu's interest in the estate.
- [24] I will make no further order with respect to item 13 of the petitioners' motion regarding the contempt of court.
- [25] With respect to the alternative proposal regarding responsibility for the income and expenses of the estate, I order that the petitioner Ms. Sahota shall be responsible for the income and expenses of the estate; shall maintain a separate account for all matters relating to the administration of the estate; and prior to final distribution and completion of the administration of the estate, shall provide a full accounting of all assets, liabilities, income and expenses of the estate of the deceased.

"The Honourable Mr. Justice Crawford"

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