

CANADA / JUDGMENT

Samra v. Lalli

2025 BCSC 2054

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Supreme Court of British Columbia

DECIDED

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2025 BCSC 2054 Samra v. Lalli

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Samra v. Lalli,

2025 BCSC 2054

Date: 20251021

Docket: E56497

Registry: New Westminster

Between:

Belsher Singh Samra

Claimant

And

Joanne Parmjit Kaur Lalli

Respondent

And

Belsher Singh Samra, Mohinder Kaur Padda and Jagdish Singh Padda

Respondents by Counterclaim

Before: The Honourable Justice Hamilton

Reasons for Judgment Re Costs

In Chambers

Counsel for the Claimant:

P.S. Virk

Appearing on her own behalf (via videoconference):

J.P.K. Lalli

Counsel for the Respondents by Counterclaim:

C.K. Sabharwal

Place and Date of Judgment:

New Westminster, B.C.

October 21, 2025

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Background

- [1] This was a family proceeding that also included civil claims. Following trial, the Claimant/ Respondent by Counterclaim Mr. Samra and the Respondents by Counterclaim Mandy and Jagdish Padda seek costs against the Respondent Ms. Lalli including special costs for the trial because Ms. Lalli amended her pleadings to include claims of fraudulent conveyance.
- [2] The trial proceeded on July 22-26 and 29-31, August 1-2 and December 6, 2024. I released reasons on June 5, 2025 which are indexed as Samra v. Lalli, 2025 BCSC 1030. Without repeating my reasons, I will outline the relevant background.
- [3] Mr. Samra and Ms. Lalli separated in 2018 after a 14-year relationship. In Mr. Samra's Notice of Family Claim filed November 18, 2018, he sought a divorce and division of family property consisting of only personal property and relatively modest investments.

- [4] Ms. Lalli filed a Counterclaim on November 30, 2018, seeking spousal support and division of family property. Ms. Lalli also added Mr. Samra as well as her sister in law and brother in law, Mandy and Jagdish Padda, as Respondents by Counterclaim. The Paddas were the registered owners of the Surrey Property in which Mr. Samra and Ms. Lalli resided. Ms. Lalli's initial claims against the Paddas were that Ms. Lalli had unjustly enriched the Paddas by her contributions to the Surrey Property.
- [5] The Surrey property was originally owned by Mr. Samra's parents. Mr. Samra's parents let Mr. Samra and Ms. Lalli reside with them at the Surrey Property. When Mr. Samra's mother passed away, Mr. Samra's father became the sole owner of the Surrey property. Mr. Samra's father then added Mr. Samra's name on title and told Mr. Samra that if he paid the Surrey Property expenses, he would eventually gift his son the property.
- [6] Instead, Mr. Samra and Ms. Lalli lived beyond their means and failed to pay the expenses for the Surrey Property. Unbeknownst to Mr. Samra's father, Mr. Samra and Ms. Lalli let the property taxes lapse for three years. By the summer of 2014, the Surrey Property was at risk of being sold for unpaid taxes. Fortunately, the Paddas stepped in to pay the property tax arrears and take over paying the expenses of the Surrey Property, saving the Surrey Property from a tax sale.
- [7] Mr. Samra's father was unhappy with Mr. Samra's financial irresponsibility and demanded that Mr. Samra's name be removed from title. Mr. Samra immediately obliged, signing papers to transfer the Surrey Property back to his father. Mr. Samra's father then transferred the property to his daughter Mandy Padda, who took over paying the mortgage and other expenses for the Surrey property. Mandy's husband Jagdish Padda was later added to title to facilitate a refinance the mortgage to pay off Mr. Samra Sr.'s other debt. Mr. Samra Sr. passed away. Mr. Samra and Ms. Lalli remained living in the large, upstairs unit of the Surrey Property. The Paddas rented the other two units to third parties. The Paddas continued to pay the mortgage and property taxes.
- [8] After Ms. Lalli and Mr. Samra separated in April 2018, Mr. Samra moved to one of the smaller units in the Surrey Property. Ms. Lalli remained in the large upper unit despite the Padda's requesting repeatedly that she leave.
- [9] The action was started in November 2018. Several trial dates were set but did not proceed. The fifth trial date was set to commence on July 22, 2024.
- [10] Less than two weeks before trial, Ms. Lalli was granted leave to amend her counterclaim. In her amended counterclaim filed July 12, 2024, Ms. Lalli plead the Fraudulent Conveyance Act, R.S.B.C. 1996 c. 163 ("FCA"). Ms. Lalli claimed that in 2014, Mr. Samra and the Paddas conspired to fraudulently convey Mr. Samra's interest in the Surrey property back to his father and ultimately to the Padda's. She claimed that she was unaware that Mr. Samra transferred his interest in the property back to his father and claimed that the transfer was done to defeat her interests. This issue became the main focus of the trial.

- [11] As set out in my reasons, I rejected much of Ms. Lalli's evidence because of credibility issues. I preferred Mr. Samra's evidence and the Paddas' evidence over Ms. Lalli's. I found that Mr. Samra transferred his interest in the property back to his father because Ms. Samra and Ms. Lalli failed to pay the expenses of the property as promised. I found that contrary to Ms. Lalli's evidence, she knew Mr. Samra transferred the property back to his father in 2014 and she knew the reason for the transfer.
- [12] I found that Ms. Lalli did not have standing to bring a fraudulent conveyance claim against Mr. Samra under the FCA because she was not a "creditor or other" under the FCA--the couple was not contemplating separation when the property was transferred. I also found no merit to Ms. Lalli's claims that any of the parties intended to defeat Ms. Lalli's interests at the time of the transfers. I also found that Ms. Lalli had not unjustly enriched any of the parties. In sum, I dismissed all Ms. Lalli's claims against the Surrey Property and the Paddas.
- [13] With Ms. Lalli's claims against the Surrey Property dismissed, Mr. Samra and Ms. Lalli's family assets under the Family Law Act, S.B.C. 2011, c. 25, were nominal. I ordered that Ms. Lalli pay Mr. Samra \$17,500 as compensation for his share of family property. I awarded Ms. Lalli a one-time lump sum payment of spousal support of \$17,500, slightly lower than sought by Ms. Lalli. These two payments offset each other.

Parties' Positions on Costs

- [14] Mr. Samra and the Paddas seek costs against Ms. Lalli. They seek ordinary costs to July 12, 2024, when Ms. Lalli amended her pleadings and special costs thereafter for the trial because Ms. Lalli made allegations of fraud when she knew or ought to have known that she had no plausible evidence to support the claims.
- [15] Ms. Lalli opposes costs being awarded, but invites me to make whatever order is fair. Ms. Lalli is now representing herself in this Court. She has retained counsel to appeal the trial decision but confirmed that her counsel is only handling the appeal. Ms. Lalli continues to maintain that the Surrey Property was transferred out of Mr. Samra's name in 2014 in order to defeat her interests.

Issues:

- [16] The issues are as follows:
- 1) Are the Paddas "successful parties" in the proceedings entitled to costs? Is Mr. Samra a successful party entitled to costs?
 - 2) If so, is Ms. Lalli's conduct worthy of rebuke such that Mr. Samra and/or the Paddas are entitled to special costs?

The Law: Costs

[17] Pursuant to Rule 16-1(7) of the Supreme Court Family Rules, B.C. Reg. 169/2009 (the "SCFR"), costs follow the event. Rule 16-1(7) of the SCFR reads as follows:

Costs to follow event

- (7) Subject to subrule (9), costs of a family law case must be awarded to the successful party unless the court otherwise orders.

Substantial Success

[18] For the purposes of Rule 16-1(7) of the SCFR, success has been deemed to mean "substantial success": *Fotheringham v. Fotheringham*, 2001 BCSC 1321 [*Fotheringham*] at para. 45.

[19] In *Fotheringham*, Bouck J. states as follows:

[45] Gold now seems to say that substantial success in an action should be decided by the trial judge looking at the various matters in dispute and weighing their relative importance. The words "substantial success" are not defined. For want of a better measure, since success, a passing grade, is around 50% or better, substantial success is about 75% or better. That does not mean a court must descend into a meticulous mathematical examination of the matters in dispute and assign a percentage to each matter. Rather, it is meant to serve as a rough and ready guide when looked at all the disputed matters globally.

[Emphasis added.]

[20] At para. 46 of *Fotheringham*, Bouck J. set out a four-part test for determining whether a party has been substantially successful in the action:

1. First, focus on the "matters in dispute" at the trial. These may or may not include "issues" explicitly mentioned in the pleadings.
2. Second, assess the weight or importance of those "matters" to the parties.
3. Third, consider all the matters in dispute globally to determine which party "substantially succeeded" overall and therefore won the event.
4. Fourth, where a party "substantially succeeded," consider whether there are reasons to "otherwise order" that the winning party be deprived of his or her costs and bear their own costs.

[21] This proceeding involved both family law issues and civil issues.

- [22] For family law proceedings, the Court of Appeal has stated that the principles set out in *Fotheringham* can be "more difficult to apply in the context of family cases, where there may be a panoply of claims advanced by each party, and divided success. There, a more flexible "substantial success" test may be more appropriate: *Litt v. Gill*, 2016 BCCA 288 at para. 53.
- [23] Upon determining which party was substantially successful in their claim, such party is entitled to costs. However, the Court may choose to award all or a portion of such party's costs: see for example, *S.S.T. v L.M.G*, 2019 BCSC 686, where the Court considered exigent circumstances justified a partial award of costs.

Discussion- Substantial Success

- [24] The most significant issues at trial were Ms. Lalli's claims to the Surrey Property, particularly Ms. Lalli's claim under the FCA that Mr. Samra and the Paddas conspired to defeat her interest in the Surrey Property. These issues were the most important issues to the parties. These issues also occupied nearly all of the trial time. Ultimately, the Respondent was unsuccessful in all of her claims to the Surrey Property. Ms. Lalli's evidence lacked credibility and I found there was no evidence to support Ms. Lalli's claims. Ms. Lalli's claims in unjust enrichment also lacked merit. Ms. Lalli could not demonstrate that she had enriched the Paddas or that she had been correspondingly deprived. Ms. Lalli could not demonstrate that she or Mr. Samra had made significant direct or indirect contributions to the Surrey Property.
- [25] The Paddas are clearly successful parties in the action. The Paddas were only involved in the litigation because Ms. Lalli made claims against the Surrey Property. As mentioned, I dismissed all claims that Ms. Lalli made against the Paddas and the Surrey Property. The Paddas also succeeded in their own claim for occupational rent against Ms. Lalli. In my view, the Paddas are entitled to costs against Ms. Lalli.
- [26] Turning to Mr. Samra's claim for costs, Mr. Samra also successfully defended Ms. Lalli's claims that the Surrey Property was transferred to defeat her interests. However, in Mr. Samra's case, there were other family law issues that did not involve the Paddas, namely: (1) Ms. Lalli's claim for spousal support; and (2) Mr. Samra's claim for compensation for property which Ms. Lalli disposed. On the issues that involved only Mr. Samra and Ms. Lalli, success was divided. However, these issues were not a significant focus of the trial.
- [27] As mentioned, the most time-consuming issues at trial were the issues involving the Surrey property. Hardly any trial time was spent on the issue of spousal support. A modest amount of trial time was spent on determining the personal property owned by Mr. Samra and Ms. Lalli at separation and what Ms. Lalli had disposed of post-separation. However, even less time would have been spent on the personal property issues had Ms. Lalli provided full, timely disclosure regarding the items she disposed.

[28] The main and almost entire focus of the trial was on Ms. Lalli's allegations that Mr. Samra owned an interest in the real property and that the conveyance in 2014 was fraudulent. Those issues were also the most important issues to both Ms. Lalli and Mr. Samra. Looking at the issues overall, I find that Mr. Samra was a successful party and is, like the Paddas, entitled to costs from Ms. Lalli.

[29] Finally, Ms. Lalli has not convinced me that there is an exigent reason to deprive Mr. Samra or the Paddas of their costs or a portion of their costs. Ms. Lalli is the author of her own misfortune and chose to take legal positions on the Surrey Property that were not supported by evidence. I will now turn to the issue of whether special costs are warranted.

The Law: Special Costs

[30] Rule 16-1(1) of the SCFR sets out the Court's discretionary power to award special costs, pursuant to the Court's inherent jurisdiction, in a family law proceeding. This section reads as follows:

Tariff of costs

- (1) If costs are payable to a party under these Supreme Court Family Rules or by order, those costs must be assessed in accordance with Appendix B unless any of the following circumstances exist:
 - (a) the parties consent to the amount of costs and file a certificate of costs or expenses setting out that amount;
 - (b) the court orders that
 - (i) the costs of the family law case be assessed as special costs, or
 - (ii) the costs of an application, a step or any other matter in the family law case be assessed as special costs in which event costs in relation to all other applications, steps and matters in the family law case must be determined and assessed under this rule in accordance with this subrule;
 - (c) the court awards lump sum costs for the family law case and fixes those costs under subrule (14) in an amount the court considers appropriate;
 - (d) the court awards lump sum costs in relation to an application, a step or any other matter in the family law case and fixes those costs under subrule (14), in which event costs in relation to all other applications, steps and matters in the family law case must be determined and assessed under this rule in accordance with this subrule.

[Emphasis added.]

- [31] Special costs are a punitive measure to address conduct "from which the court might wish to disassociate itself": *R.A.C. v. V.L.C.*, 2009 BCSC 1207 [R.A.C.] at para. 11. Special costs are used to address and deter misconduct during litigation and not to compensate either party: *567 Hornby Apartment Ltd. v. Le Soleil Restaurant Inc.*, 2020 BCCA 69, leave to appeal ref'd 39145 (1 October 2020) at para. 42.
- [32] The Court of Appeal has stated a party seeking special costs must demonstrate the other party has engaged in some form of "reprehensible conduct", which phrase covers a range of behaviour from "milder forms of misconduct deserving of reproof or rebuke" to "scandalous or outrageous conduct": *Smithies Holdings Inc. v. RCV Holdings Ltd.*, 2017 BCCA 177 [Smithies] at para. 57.
- [33] In *Chapman v. Chapman*, 2020 BCSC 1896, Jackson J. noted at paragraph 10 that special costs may be justified when litigation conduct involves:
- (a) dissipating or not disclosing assets;
 - (b) depriving the other party of financial assets;
 - (c) disregarding the other party's interest in family assets;
 - (d) pursuing meritless claims and being reckless with regard to the truth;
 - (e) improper allegations of fraud or conspiracy; or
 - (f) making the resolution of an issue far more difficult than it should have been.
- [Emphasis added.]
- [34] *R.A.C.* provides a strong example of reprehensible conduct that the Court sought to denounce and deter. In *R.A.C.*, at paras. 12 to 18, Griffin J. awarded the Defendant special costs as a result of the Plaintiff's behaviour, which included:
- (a) misleading the court about the extent of his drug use during and after the marriage;
 - (b) claiming to be a stay-at-home father while concealing his inability to work due to heavy cocaine use;
 - (c) giving knowingly false evidence to support his claim for spousal support;
 - (d) repeating deceptive statements throughout the litigation process;
 - (e) threatening, bullying, and intimidating the Defendant;
 - (f) pressuring the Defendant to agree to his demands using intimidation tactics;
 - (g) attempting to introduce a videotape to embarrass the Defendant, despite its irrelevance and inaccuracies;
 - (h) using the litigation process to hurt and humiliate the Defendant;

- (i) presenting vindictive and irrelevant evidence in custody matters;
- (j) introducing details of past sexual practices unrelated to custody issues; and
- (k) involving family members with personal grudges to prolong the trial and deepen family conflict.

[Emphasis added.]

[35] In *International Hi-Tech Industries Inc. v. FANUC Robotics Canada Ltd.*, 2007 BCSC 1724, at para. 7, Ballance J. addressed whether to order special costs in relation to a fraud claim and stated as follows:

The case law demonstrates a wide variety of circumstances that have resulted in the awarding of special costs. The failure to prove allegations of fraud will not automatically result in such an award (see: 307527 B.C. Ltd. v. Langley, 2005 BCCA 161). However, where the totality of the circumstances reveal that allegations of fraud have been made frivolously, are without foundation, or made in circumstances where the alleging party had access to information sufficient to conclude that the defendant was merely negligent or had committed no wrongdoing at all, the allegations themselves are seen to be reprehensible warranting an order of special costs: *Chaplin v. Sun Life Assurance Company of Canada et al.*, 2004 BCSC 116; *Hamilton v. Open Window Bakery Ltd.*, 2004 SCC 9.

[Emphasis added.]

Discussion: Should Special Costs Be Awarded?

[36] Mr. Samra and the Paddas have claimed special costs against the Respondent for the trial preparation and the trial after July 12, 2024, the date Ms. Lalli amended her pleadings to include claims under the FCA that Mr. Samra and the Paddas conspired to fraudulently convey the Surrey Property to defeat Ms. Lalli's interests.

[37] Mr. Samra and the Paddas have the onus of demonstrating that special costs are warranted.

[38] Mr. Samra and the Paddas say special costs are justified because:

- (a) Ms. Lalli made allegations of fraud, and the nature of her allegations are serious and attract stigma in the community;
- (b) Ms. Lalli's claims were frivolous and vexatious and made late in the litigation when Ms. Lalli would have known she did not have the evidence to support her claims; and
- (c) Ms. Lalli's claims that the Surrey Property was fraudulently conveyed to defeat her interests complicated and extended the trial.

[39] I am persuaded that Ms. Lalli knowingly or alternatively recklessly pursued meritless claims of fraudulent conveyance and that, in doing so, her conduct was reprehensible and warrants special costs.

- [40] Ms. Lalli was represented by counsel when she sought leave to amend to include fraudulent conveyance claims. Having the benefit of counsel, she would presumably have known the serious nature of her claims and her increased risk of the court awarding special costs. She also pursued the amendments late in the litigation, on the eve of the fifth trial date. Disclosure had already been made by that point. By then, Ms. Lalli would have been in a position to know what evidence existed or did not exist to support her claims. Ms. Lalli should have known that her fraudulent conveyance claims lacked a proper evidentiary basis. To proceed to trial on such serious claims without evidence was at best reckless.
- [41] Furthermore, Ms. Lalli was also reckless with the truth in her testimony. In paragraph 29 of my reasons, I state that Ms. Lalli's testimony was not credible or reliable. As set out in the reasons, Ms. Lalli displayed her anger towards Mr. Samra and his counsel while she testified. I found that Ms. Lalli seemed to make up evidence as she went along. I found Ms. Lalli's evidence was often internally and externally inconsistent.
- [42] I found that Ms. Lalli's testimony was often far-fetched, unreasonable, unlikely and inconsistent with documentation. Ms. Lalli's evidence was at times even inconsistent with her own pleadings. For example, Ms. Lalli testified that even as of late November 2018 (after the action was started), she was unaware who the registered owners of the Surrey Property were. Later in her testimony, she reluctantly admitted that she must have known by November 2018 that the Paddas were the registered owners -- she had named the Paddas as respondents by counterclaim because they were the registered owners of the Surrey Property.
- [43] Another example involves Ms. Lalli's testimony that she and Mr. Samra were having marital difficulties in the summer of 2014. In an attempt to support her claim that she was a "creditor or other" under the FCA and had a potential interest in the Surrey Property at the time of the 2014 transfer, Ms. Lalli testified that she and Mr. Samra were having marital difficulties in 2014 and that she was staying with her parents and sister. Ms. Lalli attempted to paint the picture that Mr. Samra conspired with his father and the Paddas in 2014 to transfer the Surrey Property out of his name in contemplation of separating from Ms. Lalli. However, Ms. Lalli's evidence was inconsistent with her own pleadings -- in both her 2018 counterclaim and her 2024 amended counterclaim, Ms. Lalli states that she and Mr. Samra did not separate until April 2018.
- [44] Ultimately, as set out in paragraph 85 of my reasons, I found there was no evidence to support Ms. Lalli's claims that the transfer in 2014 was a fraudulent conveyance. At paragraph 54 of my reasons, I state that there was no plausible evidence to support that Mr. Samra conspired with the Paddas to avoid Ms. Lalli's claims and described Ms. Lalli's allegations as "pure speculation" on her part.

- [45] In summary, Ms. Lalli chose to amend her pleadings to include a claim for fraudulent conveyance. She alleged that Mr. Samra and the Paddas conspired against her to defeat her interests in the Surrey Property. These are serious claims that tend to attract stigma. These claims should not be brought lightly or recklessly.
- [46] Ms. Lalli amended her pleadings to include the claims in fraudulent conveyance more than five years after her initial pleadings and less than two weeks before trial. Ms. Lalli should have known by then that she lacked the evidence to prove her claims. Ms. Lalli chose to recklessly pursue claims without merit. Ms. Lalli's testimony also demonstrated a reckless disregard for the truth.
- [47] Further, the FCA claims lengthened the trial and added to its complexity. Ms. Lalli would have or should have known this. Ms. Lalli would also have known that the claims that transfers were made fraudulently would lengthen the trial as well as deepen the conflict and ill feelings between the parties.
- [48] Overall, Ms. Lalli's pursuit of fraudulent conveyance claims in these circumstances is reprehensible conduct and worthy of rebuke. Ms. Lalli will pay special costs to Mr. Samra and to the Paddas from July 12, 2024, through to the end of the trial. Ms. Lalli will pay Mr. Samra and the Paddas ordinary costs at Scale B for the action for the time frame prior to July 12, 2024.

"Hamilton J."

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