

CANADA / JUDGMENT

Vicic v. Chou

2025 BCSC 1808

COURT

Supreme Court of British Columbia

DECIDED

8 September 2025

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2025 BCSC 1808 Vicic v. Chou

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Vicic v. Chou,

2025 BCSC 1808

Date: 20250908

Docket: E221258

Registry: Vancouver

Between:

Branko Vicic

Claimant

And

Jui-Ting Chou

Respondent

Before: The Honourable Justice J. Hughes

Oral Reasons for Judgment Re Costs

The Claimant, appearing in person:

B. Vicic

Counsel for the Respondent:

A. Shee

Place and Date of Trial:

Vancouver, B.C.

September 5, 2025

Place and Date of Judgment:

Vancouver, B.C.

September 8, 2025

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Introduction

- [1] These are my reasons on the issue of costs in this family law proceeding. In reasons for judgment indexed as *Vicic v. Chou*, 2025 BCSC 1172, I determined that the parties were not "spouses" as defined in the Family Law Act, S.B.C. 2011, c. 25, that there was, accordingly, no family property to divide, and I dismissed the claimant, Branko Vicic's, claim.
- [2] The Respondent, Ms. Chou, seeks double costs for all steps taken in this action from July 8, 2024, the date she delivered an offer to settle (the "Offer") under Rule 11-1(5) of the Supreme Court Family Rules. Ms. Chou seeks ordinary costs for the balance of the proceeding.
- [3] There is no dispute that Ms. Chou was the successful party or that she is entitled to her costs. However, Mr. Vicic says that an order for double costs is not warranted on the basis that it was not unreasonable for him not to have accepted the Offer. Accordingly, Mr. Vicic submits that Ms. Chou's costs should be limited to ordinary costs.

Background

- [4] Briefly, the parties met in 2013 and dated for various periods of time from 2015 to late 2021. Mr. Vicic lived with Ms. Chou at her townhouse in North Vancouver from March 2015 to November 2016, and again from March 2017 to June 2022. The parties' relationship ended in December 2021, at which time Ms. Chou asked Mr. Vicic to move out of her townhouse. Mr. Vicic refused to do so and ultimately did not vacate the property until he was removed by police in June 2022.

- [5] Mr. Vicic filed this claim in May 2022, asserting that the parties were spouses and claiming, inter alia, an interest in Ms. Chou's townhouse. Ms. Chou denied that the parties were spouses and claimed the townhouse as her excluded property. She also filed a counterclaim seeking, inter alia, unequal distribution of family property on account of alleged rent and other debts owed to her by Mr. Vicic, which she claimed exceeded \$97,000.
- [6] In June 2022, Mr. Vicic brought an application for an interim distribution of family property. That application was heard over two days in October and December 2022 and was ultimately dismissed. Ms. Chou was awarded costs of the application, payable in any event of the cause.
- [7] In early 2024, the parties engaged in document production. Mr. Vicic was examined for discovery on July 5, 2024.
- [8] On July 8, 2024, Ms. Chou delivered the Offer, the material terms of which were:
1. Ms. Chou will pay to you \$10,000 in full and final satisfaction of all the claims set out in your filed Notice of Civil Claim [sic];
 2. Ms. Chou will agree to a dismissal of all of the claims made in her Counterclaim, filed June 9, 2022;
 3. Ms. Chou will agree to waive the payment of costs contained in the order of Mr. Justice Majawa dated December 6, 2022; and
 4. Each of you will bear your own costs of this action.
- [9] The Offer remained open for acceptance until September 6, 2024; approximately two weeks prior to the trial date. The Offer also expressly set out the consequences should Mr. Vicic fail to accept it:

In the event that this offer is not accepted and your claims are dismissed, as we expect they will be, I confirm that Ms. Chou will be asking the court to make an award of double costs against you in respect of all steps taken from today's date through the end of the trial, in accordance with Rule 11-1(5) of the Supreme Court Family Rules and I expect that she will take steps to vigorously enforce any costs award made in her favour including, but not limited to, the garnishment of your wages.

The Respondent, Ju-Ting Chou also known as Claire Chou, reserves the right to bring this offer to the attention of the court for consideration in relation to costs after the court has pronounced judgment on all other issues in this proceeding.

- [10] Mr. Vicic did not respond to the Offer, and it was revoked according to its terms. The action proceeded to trial before me over ten days on September 23-27, 2024, and January 13-16, 2025. As noted above, I dismissed Mr. Vicic's claim in its entirety. Ms. Chou did not pursue her counterclaim.

Law

- [11] Unless the Court orders otherwise, costs in a family law proceeding are awarded to the successful party: SCFR Rule 16-1(7). Mr. Vicic does not dispute that Ms. Chou was the successful party or that she is entitled to her costs. The only issue is whether Ms. Chou is entitled to double costs on account of Mr. Vicic's failure to accept the Offer.
- [12] Offers to settle are addressed in Rule 11-1 of the SCFR. Where an offer to settle has been made, the Court may consider it in relation to costs and may award double costs of some or all steps in the litigation taken after the date of delivery:
- (4) The court may consider an offer to settle when exercising the court's discretion in relation to costs.
- (5) In a family law case in which an offer to settle has been made, the court may do one or more of the following:
- (a) deprive a party of any or all of the costs, including any or all of the disbursements, to which the party would otherwise be entitled in respect of all or some of the steps taken in the family law case after the date of delivery or service of the offer to settle;
 - (b) award double costs of all or some of the steps taken in the family law case after the date of delivery or service of the offer to settle;
 - (c) award to a party, in respect of all or some of the steps taken in the family law case after the date of delivery or service of the offer to settle, costs to which the party would have been entitled had the offer not been made;
 - (d) if the party who made the offer obtained a judgment as favourable as, or more favourable than, the terms of the offer, award to the party the party's costs in respect of all or some of the steps taken in the family law case after the date of delivery or service of the offer to settle.
- [13] The purpose of double costs is set out in *Hartshorne v. Hartshorne*, 2011 BCCA 29, where the Court of Appeal said this:
- [25] An award of double costs is a punitive measure against a litigant for that party's failure, in all of the circumstances, to have accepted an offer to settle that should have been accepted. Litigants are to be reminded that costs rules are in place "to encourage the early settlement of disputes by rewarding the party who makes a reasonable settlement offer and penalizing the party who declines to accept such an offer" (*A.E. v. D.W.J.*, 2009 BCSC 505, 91 B.C.L.R. (4th) 372 at para. 61, citing *MacKenzie v. Brooks*, 1999 BCCA 623, *Skidmore v. Blackmore* (1995), 2 B.C.L.R. (3d) 201 (C.A.), *Radke v. Parry*, 2008 BCSC 1397). In this regard, Mr. Justice Frankel's comments in *Giles* are apposite:

[74] The purposes for which costs rules exist must be kept in mind in determining whether appellate intervention is warranted. In addition to indemnifying a successful litigant, those purposes have been described as follows by this Court:

- "[D]eterring frivolous actions or defences": *Houweling Nurseries Ltd. v. Fisons Western Corp.* (1988), 37 B.C.L.R. (2d) 2 at 25 (C.A.), leave ref'd, [1988] 1 S.C.R. ix;
- "[T]o encourage conduct that reduces the duration and expense of litigation and to discourage conduct that has the opposite effect": *Skidmore v. Blackmore* (1995), 2 B.C.L.R. (3d) 201 at para. 28 (C.A.);
- "[E]ncouraging litigants to settle whenever possible, thus freeing up judicial resources for other cases: *Bedwell v. McGill*, 2008 BCCA 526, 86 B.C.L.R. (4th) 343 at para. 33;
- "[T]o have a winnowing function in the litigation process" by "requir[ing] litigants to make a careful assessment of the strength or lack thereof of their cases at the commencement and throughout the course of the litigation", and by "discourag[ing] the continuance of doubtful cases or defences": *Catalyst Paper Corporation v. Companhia de Navegação Norsul*, 2009 BCCA 16, 88 B.C.L.R. (4th) 17 at para. 16.

[14] Rule 11-1(6) sets out the factors to be considered when determining whether to make an order for double costs under subrule (5):

- (6) In making an order under subrule (5), the court may consider the following:
- (a) whether the offer to settle was one that ought reasonably to have been accepted, either on the date that the offer to settle was delivered or served or on any later date;
 - (b) the relationship between the terms of settlement offered and the final judgment of the court;
 - (c) the relative financial circumstances of the parties;
 - (d) any other factor the court considers appropriate.

[15] The first factor--whether the offer to settle was one that ought reasonably to have been accepted--is not determined with reference to the award ultimately made: *Hartshorne* at para. 27. Rather, the Court must determine whether it was unreasonable to refuse the offer at the time it was open for acceptance: *Cottrill v. Utopia Day Spas and Salons*, 2019 BCCA 26 at para. 30, as cited in *C.Y.J.* at para. 21. In this context, reasonableness is assessed by considering factors including the timing of the offer, whether it had some relationship to the claim as opposed to being a "nuisance offer", whether it could be easily evaluated, and whether some rationale for the offer was provided: *Hartshorne* at para. 27.

[16] The fact that an offer to settle was revoked or expired prior to trial does not prevent it from being considered in relation to costs: *C.Y.J. v. R.J.* 2023 BCSC 140, at para. 20.

Analysis

- [17] Applying the legal principles set out above to the facts, I am satisfied that Ms. Chou is entitled to double costs from the date of the Offer, namely July 8, 2024.
- [18] I have reviewed the Offer and find that it clearly and comprehensively sets out the terms being offered and the consequences of non-acceptance if Mr. Vicic's claim was dismissed. The Offer represented a reasonable proposal in that it provided Mr. Vicic with the opportunity to resolve the litigation with \$10,000 payable to him and no liability for costs, including the December 2022 costs in any event of the cause award made in Ms. Chou's favour following Mr. Vicic's failed application for an interim distribution of family property.
- [19] The Offer was delivered two and a half months before trial--after document discovery and Mr. Vicic's examination for discovery had been conducted--and remained open for acceptance until two weeks before the trial date. The Offer also provided a detailed rationale as to why Mr. Vicic's claim was likely to be dismissed:
- In addition to the lack of exclusivity or intended permanence in your relationship with Ms. Chou (a fact made clear by the fact that she remained married to someone else and made it known to you that she had no intention of ending her marriage), it is clear that neither of you ever referred to each other as spouses to third parties and kept all of your finances separate, with the exception of Ms. Chou providing you with her bank card to ensure that you made regular deposits of what she has repeatedly categorized as rent payments.
- [20] Mr. Vicic therefore had the information necessary to fairly evaluate both the strength of his claim and the merits of the Offer, and ample time to consider it.
- [21] Mr. Vicic contends that it was not unreasonable to reject an offer of \$10,000, as that represented only "a small fraction" of the expected increase in value of the family property, namely the residential property owned by Ms. Chou. However, and as Mr. Vicic concedes, he did not lead evidence at trial to establish the potential value of family property. As such, it is unclear whether the \$10,000 was "a small fraction" or a nominal offer in relation to the expected value of family property. Regardless, Mr. Vicic ignores the additional benefits of Ms. Chou agreeing to waive her costs, including the order for costs in any event of the cause already made in her favour. I find that the Offer represented a meaningful attempt at compromise and offered monetary and other benefits to Mr. Vicic that were not merely nominal.
- [22] I also conclude that the parties' relative financial circumstances do not weigh against an order for double costs. I am satisfied that, other than Ms. Chou owning a townhouse that is encumbered by a mortgage, neither party has significant financial means. As of trial, both parties were employed: Ms. Chou as a manager at a retail store and Mr. Vicic in the insurance services sector. However, at the costs hearing, Mr. Vicic advised the court that he is presently unemployed. Even if this is true--and I make no finding in that respect given the lack of sworn evidence and my concerns regarding Mr. Vicic's credibility as set out in my

reasons for judgment--Mr. Vicic's current employment status does not change my analysis. Mr. Vicic has had difficulty finding and maintaining gainful employment throughout the material time and a history of failing to report income. As such, I do not find his present employment status, or lack thereof, sufficient to absolve him of the consequences of failing to accept the Offer. The parties' financial circumstances are not sufficiently disparate that Ms. Chou should be deprived of the benefit of the Offer and consequently bear the consequences of Mr. Vicic's failure to accept it when it was made.

- [23] In so concluding, I appreciate that Mr. Vicic has been self-represented throughout these proceedings. However, the consequences of not accepting the Offer were clearly set out therein. Further, and as the Court noted in *Hurford v. Burgart*, 2011 BCSC 1551, self-represented litigants are taken to understand the rules regarding costs and are required to give the same careful consideration to offers to settle as litigants who have counsel:
- [18] The respondent, although self-represented, must be taken to understand the Family Rules concerning an award of costs. He is as much subject to the court's rules as is a litigant represented by counsel. Simply because he is self-represented does not mean he is not required to give the same careful consideration to an offer to settle as if he had counsel.
- [24] As this Court has repeatedly noted, double costs are the rule rather than the exception: *Primeau v. L'Heureux*, 2018 BCSC 2200 at para. 17; *I.J.G.P.G. v. K.M.*, 2017 BCSC 261 at para. 87; *C.Y.J.* at para. 24; *K.M. v. I.M.*, 2017 BCSC 716 at para. 16. While I accept that it may appear harsh to Mr. Vicic to award double costs, he did not incur substantial legal costs to pursue a claim that ultimately failed. Ms. Chou did incur such costs to defend the claim he brought against her--in litigation that was made lengthier and more costly than it ought to have been given the matters in issue by Mr. Vicic's conduct--despite having made what I found to be a reasonable and timely settlement offer.
- [25] Notwithstanding her position that Mr. Vicic's claim was without merit, and her own limited financial resources, Ms. Chou made a reasonable and timely offer to settle with a view to avoiding trial. Had he accepted the Offer, Mr. Vicic would have been in a significantly better position than he now finds himself, an outcome which ought to have been obvious to him throughout the time the Offer remained open for acceptance.
- [26] In the result, Ms. Chou is awarded double costs from the date of the Offer in accordance with Rule 11-1(5)(b) of the SCFR.

Conclusion

- [27] Ms. Chou is entitled to double costs from July 8, 2024, through to the conclusion of the trial of this matter, and ordinary costs for the balance of this proceeding, including of this costs hearing.

"Hughes J."

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Prepared on 29 October 2026 · Esheria