

CANADA / JUDGMENT

Wang v. Li

2025 BCCA 256

COURT

British Columbia Court of Appeal

DECIDED

23 July 2025

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2025 BCCA 256 Wang v. Li

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation:

Wang v. Li,

2025 BCCA 256

Date: 20250723

Dockets: CA49292; CA49293

Docket: CA49292

Between:

Xiao Min Wang also known as Xiaomin Wang and

Appellant

(Respondent)

And

Ran Li

Respondent

(Claimant)

And

Hongsheng Li and Chaoxia Peng

Respondents

(Respondents by counterclaim)

And

West Ask Investments Inc.

Respondent

(Respondent)

- and -

Docket: CA49293

Between:

Xiao Min Wang also known as Xiaomin Wang and.

Appellant

(Defendant)

And

Hongsheng Li and Chaoxia Peng

Respondents

(Plaintiffs)

And

West Ask Investments Inc.

Respondent

(Defendant)

Corrected Judgment: The title page of the judgment was corrected on
August 6, 2025.

Before:

The Honourable Mr. Justice Abrioux

The Honourable Madam Justice Horsman

The Honourable Justice Iyer

On appeal from: An order of the Supreme Court of British Columbia,
dated July 24, 2023 (Li v. Wang, 2023 BCSC 1268,
Vancouver Dockets E192609 and S1911410).

Counsel for the Appellant, Xiao Min Wang:

F. Lamer

Counsel for the Respondents, Ran Li, Hongsheng Li and Chaoxia Peng:

G.E. Edwards

Counsel for the Respondent, West Ask Investments Inc.:

K. Yang

Place and Date of Hearing:

Vancouver, British Columbia

March 25, 2025

Place and Date of Judgment:

Vancouver, British Columbia

July 23, 2025

Written Reasons by:

The Honourable Mr. Justice Abrioux

Concurred in by:

The Honourable Madam Justice Horsman

The Honourable Justice Iyer

Summary:

The appellant challenges orders made in two related civil and family proceedings. The actions concern the breakdown of familial and financial relationships between the appellant, his ex-wife, and her parents. The appellant submits the judge made errors of law and of fact, particularly in his credibility assessments and in making findings about the parties' ownership interests in various Chinese assets after declining to exercise jurisdiction over those assets pursuant to s. 106 of the Family Law Act, S.B.C. 2021, c. 25.

Held: Appeal dismissed. The judge made no reviewable errors in his credibility assessments. There was a factual basis for all of the findings of fact made, and these should not be disturbed on appeal. While the judge did err in principle in declining to exercise jurisdiction under s. 106 of the FLA, this error had no material impact on the outcome of the case.

Reasons for Judgment of the Honourable Mr. Justice Abrioux:

Introduction

- [1] This appeal arises from orders made following a lengthy trial of two related proceedings. The first is a family law action brought by the respondent Ran Li (Ms. Li) against her then-husband, the appellant Xiao Wang (Mr. Wang), in which Mr. Wang filed a counterclaim. The second proceeding is one brought by Ms. Li's parents, Hongsheng Li (Mr. Li) and Chaoxia Peng (Ms. Peng) against Mr. Wang. In his reasons, which are indexed as 2023 BCSC 1268, the trial judge referred to Mr. Li and Ms. Peng as the "Li Parents", and collectively with Ms. Li, the "Li Family". West Ask Investments Inc. ("West Ask"), was named as a defendant to the second action, in which the Li Parents alleged that West Ask, through Mr. Wang, misappropriated certain property. The two proceedings were heard together. West Ask was a party to both, given that certain of the claims in the family proceeding related to West Ask's assets.
- [2] Mr. Wang and Ms. Li were married in China in 2003, and their relationship lasted approximately 16 years. There is a daughter of the marriage, referred to in the judge's reasons as "the Child", who was born in 2010. The Child currently resides with Mr. Wang.
- [3] The Li Parents operated several successful real estate and pawnbroking businesses in China. After Mr. Wang and Ms. Li were married and Mr. Wang completed university studies in New Zealand (studies funded by the Li Parents), Mr. Wang, Ms. Li, and the Li Parents decided to emigrate from China to Canada; Mr. Wang and Ms. Li would leave first, settling in Canada in 2009, later followed by the Li Parents in 2014. At trial, the judge found that Ms. Li and Mr. Wang's expenses were paid using money sent from China by the Li Parents and that this arrangement continued up until Mr. Wang's relationship with the Li Family broke down and he and Ms. Li separated.
- [4] The Li Parents accumulated considerable wealth in China (collectively, the "Chinese assets"). Over an extended period of time, certain real estate and other assets were acquired in British Columbia (the "BC assets") using funds originating in China and generated by the Chinese assets. West Ask was one of the corporate vehicles used to acquire certain of the BC assets.
- [5] It was not in dispute that portions of the Chinese assets, including income from the real estate holdings, were used to acquire the BC assets. One of the principal issues on appeal relates to whether Ms. Li had a beneficial interest in the Chinese assets, such that some of the BC assets were family property and subject to the provisions of the Family Law Act, S.B.C. 2011, c. 25 [FLA].
- [6] A key issue on appeal relates to the judge's credibility findings regarding Mr. Wang which included that he consistently failed to provide the court with truthful answers to questions. Accordingly, the judge did not rely on Mr. Wang's testimonial evidence and generally preferred the Li Family's evidence over Mr. Wang's where there was a conflict: at para. 39. In Mr. Wang's submission, the judge made several significant errors in assessing his credibility and the credibility of the members of the Li Family. He says that these errors wrongfully

disentitled him to any interest in most of what he considers to be family property and resulted in his being found liable for misappropriation of funds and other property.

[7] For the reasons that follow, I would dismiss the appeal.

Background

- [8] Following Ms. Li's and Mr. Wang's immigration to British Columbia in 2009, the Li Family purchased a number of properties in the Vancouver area, referred to in the trial reasons as the West 7th House, the Rockbank House, and Aberdeen Square (a multi-unit commercial property located in Richmond). Aberdeen Square comprised a number of commercial rental units purchased through West Ask. Mr. Wang incorporated West Ask in 2010, and the corporation was primarily used as an investment vehicle for funds from the Li Parents. The Li Parents relied upon Mr. Wang to facilitate these purchases, as none of the Li Family spoke or read English fluently.
- [9] Ms. Li and Mr. Wang lived at the West 7th House and the Rockbank House at various times during their relationship.
- [10] Mr. Wang also facilitated a number of other financial transactions involving the Li Parents, West Ask, and AXKA Group Inc. ("AXKA"). Mr. Wang incorporated AXKA in 2014, and was a shareholder and director of the company. In 2015 and 2016, the Li Parents transferred a total of \$1.4 million to Mr. Wang, which Mr. Wang subsequently invested in AXKA. In 2017, Mr. Wang transferred \$65,000 from West Ask to AXKA. In 2018, Mr. Wang sold one of the units in Aberdeen Square, which was owned by West Ask, to a third party for \$280,000. These transactions were not approved of by the Li Parents: at para. 24.
- [11] Ms. Li and Mr. Wang separated in early 2018. In September 2018, the Li Parents brought a civil claim against Mr. Wang. In October 2018, Ms. Li filed a family claim against Mr. Wang. The parties reconciled in December 2018, and the claims were both discontinued in March 2019. This reconciliation, however, was short-lived, and Ms. Li and Mr. Wang separated permanently in the summer of 2019. Ms. Li filed a second family claim against Mr. Wang in September 2019, and the Li Parents filed a second civil claim against Mr. Wang in October 2019. Both actions proceeded to trial over multiple days in February, March, and April of 2023.

The Reasons for Judgment

Credibility

- [12] The judge found Mr. Li to be a credible and reliable witness, who "spoke comprehensively", "listened carefully to questions from counsel, paused thoughtfully before responding, and provided answers that were clear and forthright": at para. 36. The judge noted that Mr. Li "readily admitted the gaps in his knowledge" and "was not evasive, argumentative, or combative": at para. 36. The judge found Ms. Peng's evidence "to be similarly genuine and

transparent": at para. 37. He also found Ms. Li to be a credible and reliable witness, whose testimony was consistent with Mr. Li's and with the documentary evidence, although he noted that she appeared to have limited knowledge "with respect to some of the contentious financial issues": at para. 38.

- [13] Turning to Mr. Wang's credibility, the judge began by noting a "marked difference" in his approach to answering questions during examination-in-chief--"confidently and clearly"--and cross-examination, when he was "often evasive and unclear, and occasionally impatient and argumentative": at para. 39. The judge also noted that there were troubling inconsistencies between Mr. Wang's evidence at trial and on examination for discovery, and discrepancies relating to his financial disclosures: at para. 39. The judge therefore concluded:
- [39] Ultimately, I was not confident that Mr. Wang was consistently providing the Court with truthful answers, unless it was corroborated by reliable documentary evidence. Accordingly, when Mr. Wang's testimonial evidence was in conflict with that of the Li Family, I generally preferred and accepted the latter.

Property Division

- [14] In light of the various property issues, their interrelationship in the family and civil proceedings, and the number of issues raised on appeal, it is necessary to review the background and the judge's findings in some detail.
- [15] A central issue at trial was whether the following assets constituted Mr. Wang and Ms. Li's family property within the meaning of the FLA:
- a) A number of commercial real estate units in Hefei, China, referred to as the "Jin An Garden" properties, of which Ms. Li "is apparently [the] registered owner" (at para. 48);
 - b) The three British Columbia properties referred to above; and
 - c) The shares in West Ask.

The Real Estate Located in China and Section 106 of the FLA

- [16] The parties disputed, and continue to dispute, the question of who owns the Jin An Garden properties. A "very limited" amount of documentary evidence, consisting of "a few rental agreements" listing Ms. Li as the lessor of the units, was put before the court: at para. 49. Rental income from the Jin An Garden properties was collected in accounts registered in Ms. Peng's name and managed by Mr. Li: at para. 51.
- [17] The judge noted, further, that:
- [49] No properly translated documents were entered into evidence regarding the [Jin An Garden] units' actual ownership, the dates when their title was transferred, the price paid for them, or their current value.

- [18] In addition to this limited documentary evidence, the parties also gave oral testimony as to the ownership of the properties. The Li Family testified that the Jin An Garden properties were part of a "larger collection of Chinese real estate that was acquired by Mr. Li": at para. 50. They testified that Mr. Li, in consultation with his wife, Ms. Peng, decided to:
- [50] randomly assign the nominal ownership registration of each specific property unit to a particular Li Family member out of a concern that registering all of the properties under a single name would make them more vulnerable to changes in government policy that could adversely impact their ownership rights.
- [19] According to the Li Family's testimony, Ms. Li had "no actual involvement in the acquisition, management, or decision-making regarding Jin An Garden or any other properties in China [t]he same can be said for Mr. Wang": at para. 52.
- [20] At trial, the Li Parents submitted that the court should exercise its discretion not to make any orders related to the Jin An Garden properties, pursuant to s. 106(4) of the FLA. Where an order respecting property division may be made in more than one jurisdiction, s. 106(4) permits the court to decline to make an order in respect of family property where, "having regard to the interests of the spouses and the ends of justice, [the court] considers that it is more appropriate for jurisdiction to be exercised outside British Columbia". Section 106(5) provides a list of factors that the court "must consider" in determining whether to exercise jurisdiction under s. 106(4).
- [21] Having considered the factors set out at s. 106(5) of the FLA, the judge held that it would "be more appropriate for the parties' dispute in respect of their legal interests in the Jin An Garden units to be decided by a court in China with the requisite jurisdiction": at para. 60. He gave several reasons for this conclusion. The first had to do with the "unusual nature of the family claim made in respect of the [Jin An Garden units]", in particular, the fact that the claim involved the Li Parents' financial and proprietary interests: at para. 61. In addition, the judge was of the view that "the Li Parents' assertion of a beneficial ownership interest in the Chinese real estate appears to have merit": at para. 62. While the judge purported not to decide the issue, he noted that the "testimonial evidence before the Court strongly suggests that the Li Family always considered Ms. Li's registered title to the Jin An Garden units as simply a notional one" and that this position was supported by an agreement signed by the members of the Li Family stating that the properties, despite being "registered under individual names are jointly owned by the Li Family": at para. 62.
- [22] The trial judge declined jurisdiction to determine this matter under s. 106(4) of the FLA. He found that it would be more appropriate for a court in China to determine the issue because of the limited evidentiary record; the fact that the issue involved the Li Parents, who claimed to beneficially own the properties; and the fact that prior litigation proceedings related to the Chinese Properties had already been adjudicated by Chinese courts.

[23] It should be noted that the judge did, however, assume jurisdiction over another asset located in China, treating it as family property which should be apportioned equally. This was an account with Guo Yuan Securities, valued at \$682,820 as of September 2022: at para. 95. The Li Family submitted that the judge ought to decline to exercise jurisdiction over the account under s. 106, but, in the alternative, accepted that the account was family property: at para. 97. The judge saw "no valid reason to refuse to exercise jurisdiction in respect of this asset" as, unlike the Jin An Garden units, the Li Parents did not assert any claim to ownership of the account: at para. 99. Accordingly, and in light of Ms. Li's alternative concession that the account was family property, he made an order for equal division of the account: at para. 99.

The BC Properties

- [24] At trial, the parties' positions with respect to the BC properties were as follows. The Li Family submitted that neither the West 7th House nor the Rockbank House are family property, notwithstanding that the former is registered in Ms. Li's name and the latter is registered in the names of Ms. Li and Mr. Wang. They said that both residences were held in resulting trust for benefit of the Li Parents. In the alternative, the Li Family argued that the properties are excluded property. The Li Family also submitted that the Aberdeen Square Property was a gift to Ms. Li, and therefore excluded family property. Mr. Wang submitted that all three properties are family property and therefore subject to equalisation under the FLA.
- [25] The judge noted that the starting point for his analysis was the presumption of indefeasible title bestowed upon the registered owner of real property by operation of s. 23(2) of the Land Title Act, R.S.B.C. 1996, c. 250, and that this presumption may be rebutted where the registered owner is shown to hold the property in a resulting trust for another: at para. 77, citing *Freeland v. Farrell*, 2022 BCCA 99 at paras. 42-44.
- [26] The judge held that both the West 7th House and the Rockbank House were subject to resulting trusts in favour of the Li Parents: at para. 80. This conclusion was based on the Li Family's testimony that it was "always the Li Parents' intention to maintain beneficial ownership of the two houses": at para. 81. This testimony was supported by two documents entered into evidence: in the first, titled "Explanation of Assets", Ms. Li and Mr. Wang declare that "all their real properties, investment properties, shares, etc. in Vancouver and China were paid for by" the Li Parents, who "have full ownership of" the assets: at para. 83. The second document is titled "Bare Trust Declaration and Agreement", and it provides that Mr. Wang and Ms. Li hold the Rockbank House as bare trustees for the Li Parents: at para. 84.

- [27] As for the commercial unit at Aberdeen Square, the judge found that it was excluded property as the evidence indicated that it was a gift to Ms. Li: at para. 88. There had been an increase in value since the property's acquisition, which increase was family property pursuant to s. 85 of the FLA: at para. 89.

The West Ask Shares

- [28] The judge held that neither Ms. Li nor Mr. Wang owned any of the shares in West Ask at the time of their separation in 2019. In reaching this conclusion, he found that the evidence established that Mr. Wang purchased the Aberdeen Square units through West Ask, of which he was the sole shareholder, rather than a corporation incorporated specifically for that purpose, in violation of Mr. Li's instructions. The evidence further established that, at Mr. Li's request, two documents were later prepared indicating that the Li Parents owned all the shares in West Ask: at paras. 112-114. The judge was satisfied that as of the date of separation in 2019, neither Mr. Wang nor Ms. Li had any interest in the West Ask shares: at para. 115.
- [29] The judge reached his conclusion "notwithstanding the existence of a document apparently created by Mr. Wang in 2012 titled 'Shareholder Information' on a Canada Revenue Agency form", which document indicated that Mr. Wang and the three members of the Li Family all held shares in West Ask. The judge accepted Mr. Li's evidence that "he understood this document to simply reflect some proposed 'salaries', as opposed to the actual distribution of West Ask shares, since that was how Mr. Wang translated it for him": at para. 116. The judge also concluded that this document did not affect his finding that by 2019, Mr. Wang and the Li Family understood that the Li Parents were the only shareholders of West Ask: at para. 116. Mr. Li testified that he had been told this by Mr. Wang.

Ms. Li's Income for Child Support Purposes

- [30] The remaining issue that arises from the family proceeding and is a ground of appeal is the judge's determination of Ms. Li's income for the purposes of determining the child support that would be payable to Mr. Wang. The judge found that Ms. Li's income for those purposes was \$83,239, being the amount she had reported on her T1 tax return. Because he had declined to make a determination as to the ownership of the Chinese assets, the judge declined to accede to either the Li Family's suggestion that Ms. Li's income should be reduced because the income flowed from funds held in trust, or Mr. Wang's suggestion that income ought to be imputed, pursuant to s. 19 of the Spousal Support Advisory Guidelines, based on the Jin An Garden properties.

The Civil Claim

- [31] The judge then turned to the four instances of alleged property misappropriation that were raised in the civil proceeding, three of which are relevant to this appeal:

- a) Mr. Wang's \$1.4 million investment of funds from the Li Parents into AXKA (the "AXKA Investment Funds");
- b) Mr. Wang's transfer of funds from West Ask to AXKA, and his sale of a property owned by West Ask (the alleged misappropriation of West Ask's assets); and
- c) Mr. Wang's alleged conversion of jewelry owned by Ms. Peng and alleged refusal to return it.

The AXKA Investment Funds

- [32] The judge first considered the AXKA Investment Funds, noting that the investment, which was done in two tranches, was made at a time when the "Li Parents trusted and relied upon Mr. Wang, and wanted to support him with his business endeavours": at para. 127. "Consistent with this trust and reliance, Mr. Wang had signing authority in respect of at least one of the Li Parents' bank accounts": at para. 27.
- [33] There was a question as to whether the first tranche of funds advanced by the Li Parents was a loan or an investment. The judge found that the first tranche was an investment: at para. 129. However, he found that the second tranche--of \$1 million--amounted to a misappropriation of the Li Parents' funds by Mr. Wang. This was because the "complex share purchase arrangement devised by Mr. Wang was a stratagem designed to create an appearance that the Li Parents approved the \$1,000,000 investment in AXKA notwithstanding the Li Parents' wishes to the contrary": at para. 134. He found Mr. Wang liable for conversion, and did not permit Mr. Wang to raise a limitation defence since "no Limitations Act defence was pleaded in Mr. Wang's response to civil claim": at para. 135.

The West Ask Assets

- [34] Next, the judge considered Mr. Wang's alleged misappropriation of West Ask's assets. In 2017, Mr. Wang transferred \$65,000 from West Ask to AXKA. In 2018, he sold one of the Aberdeen Square units owned by West Ask. West Ask and the Li Parents alleged a breach of fiduciary duty and conversion in relation to these transactions, arguing that they were not authorized by, nor done for the benefit of, West Ask or the Li Parents.
- [35] The judge found that Mr. Wang committed the tort of conversion with respect to the 2017 transfer of \$65,000. In 2016, Mr. Li replaced Mr. Wang as director of West Ask; accordingly, Mr. Wang's conduct of the 2017 transfer, in respect of which Mr. Li's approval was neither sought nor obtained, was without any lawful authorization: at para. 142. The judge accepted Mr. Li's evidence that his approval was required for this disbursement which he did not agree to. He also rejected Mr. Wang's evidence that the money was paid to AXKA for services rendered to West Ask, which included a salary to Mr. Wang, finding that this was a "vague justification", particularly given other evidence about Mr. Wang's conflicting interest in AXKA and AXKA's financial difficulties: at para. 142.

[36] The judge further held that the sale of the Aberdeen Square property constituted a breach of the fiduciary duty Mr. Wang owed to West Ask. While Mr. Wang was not a director of West Ask at the time of the transfers to AXKA (discussed above), he was at the time that the Aberdeen Square property was sold, having filed corporate notices removing Mr. Li as a director and reinstating himself in March of 2018 (Mr. Li was later reinstated, and Mr. Wang removed, in January, 2019): at para. 145. Accordingly, and notwithstanding "the Li Family's highly plausible assertion that Mr. Wang made himself the director of West Ask [in 2018] without their knowledge or consent", the judge found that Mr. Wang had the "apparent authority" to direct the sale: at para. 145. The trial judge concluded that Mr. Wang's decision to sell the unit and then convert the sale proceeds to his own personal use was not in the best interests of West Ask, and therefore constituted a breach of Mr. Wang's fiduciary duty as a director.

Jewelry

[37] The judge turned, next, to the alleged misappropriation of certain luxury jewelry items owned by Ms. Peng. Ms. Peng purchased the jewelry from Tiffany & Co. in or around 2010, and the items, comprising rings, earrings, and pendants, were collectively purchased for \$378,300: at para. 161. The Li Family claimed that Ms. Li placed the jewelry in a safety deposit box leased by Mr. Wang shortly before a trip to China in the summer of 2019. During this trip, certain events transpired between the couple, resulting in their final separation. The judge found that Mr. Wang thereafter removed the jewelry from the deposit box and has since refused to return the jewelry to Ms. Peng, without justification: at para. 174.

Supplementary Reasons

[38] The trial judge delivered supplementary reasons for judgment in which he awarded the respondents double costs for a portion of both proceedings based on an offer of settlement which had not been accepted by Mr. Wang: *Li v. Wang*, 2023 BCSC 1740. No appeal is taken from these orders.

Issues on Appeal and Standard of Review

[39] Mr. Wang advances several grounds of appeal, which I would summarize as being that the judge erred:

- a) In his assessment of the parties' credibility;
- b) By finding, implicitly, that the Chinese assets were owned by the Li Parents after ruling, pursuant to s. 106 of the FLA, that the ownership of those assets should be decided by the Chinese courts;
- c) By failing to address the ownership of certain West Ask shareholder loans (a new argument on appeal);

- d) In certain of his findings regarding the property misappropriation claims;
 - e) In setting the quantum of damages for the conversion of the jewelry at its purchase price; and
 - f) In failing to impute income from Ms. Li's Chinese real estate income for the purposes of determining Ms. Li's Guidelines income.
- [40] The standard of review that applies to questions of law is correctness. The standard of review for findings of fact and of mixed fact and law (absent an extricable question of law) is palpable and overriding error: *Housen v. Nikolaisen*, 2002 SCC 33 at paras. 10, 19, 26-28.
- [41] A judge's factual findings as to the credibility of a witness are reviewable on the standard of palpable and overriding error: *Geffen v. Goodman Estate*, [1991] 2 S.C.R. 353 at 388; *Sellathurai v. Bremjit*, 2023 BCCA 268 at para. 26. Credibility assessments attract a high degree of deference on appeal: *R. v. Li*, 2023 BCCA 47 at para. 81. In *Sellathurai*, this Court recently summarized certain of the principles that apply where an appellate court reviews a trial judge's conclusions on credibility, which include:
- a) Where a trial judge demonstrates that they are alive to inconsistencies in the evidence of a witness but nevertheless concludes that they are credible, there is no basis for appellate intervention absent a palpable and overriding error (at para. 27, citing *F.H. v. McDougall*, 2008 SCC 53 at para. 70);
 - b) Trial judges are not obliged to identify and discuss every piece of evidence in assessing a witness's credibility, and are not obliged to identify and resolve every inconsistency in the evidence (at para. 28);
 - c) Trial judges must show that they "grappled with the substance of the evidence and the live issues in the case" (at para. 28, citing, inter alia, *R. v. R.E.M.*, 2008 SCC 51 at para. 64); and
 - d) A trial judge's failure to address "critical evidence on a disputed issue" may constitute a reviewable error, but only if this failure "gives rise to a reasoned belief that the judge forgot, ignored, or misconceived the evidence" (at para. 28, citing *M. McIsaac Family Holdings Ltd. v. Tolam Holdings Ltd.*, 2020 BCCA 371 at para. 106 and *Merck Frosst Canada Ltd. v. Canada (Health)*, 2012 SCC 3 at para. 125).
- [42] It should also be emphasized that, as this Court affirmed in *Khela v. Clarke*, 2022 BCCA 71 at para. 6, trial judges have an "overwhelming advantage" when making credibility assessments. This is because they can directly observe the witnesses as they give evidence in real time: *R. v. G.F.*, 2021 SCC 20 at para. 81.
- [43] Finally, while the ordinary appellate standards of review apply in family law proceedings, this Court has recognized the importance of appellate intervention in such cases being of a "strict and limited scope": *Naimi v. Yunusova*, 2023 BCCA 124 at para. 29. As this Court recently explained in *Mills v. O'Connor*, 2025 BCCA 34:

[32] This deferential approach flows from the generally "fact-based and discretionary" nature of family law decisions (*Van de Perre v. Edwards*, 2001 SCC 60 at para. 11, citing *Hickey v. Hickey*, [1999] 2 S.C.R. 518 at para. 10) as well as the elevated importance of final resolutions in family matters: *Naimi* at para. 29; *Barendregt v. Grebliunas*, 2022 SCC 22 at paras. 100-104. As such, an appellate court will interfere with a family law decision only where there has been a material error, a serious misapprehension of the evidence, or an error of law: *Hickey* at para. 12; *Barendregt* at para. 103.

The Implicit Allegations of Ineffective Assistance by Trial Counsel

[44] The judge's credibility findings were essential to his conclusions in both proceedings.

[45] Mr. Wang's position on appeal, as it concerns the judge's credibility findings, must be considered in the following context. At the conclusion of the evidence at trial, the proceedings were adjourned to a date for the hearing of submissions. It is significant that at that time, the judge provided the following direction to counsel:

If a party is going to argue that the court should discount the evidence of a witness, clear submissions as to why that person lacks credibility or reliability with supporting examples must be set out in the factum. So you can do that either in your statement of facts or your legal argument, I don't care, it's up to you. But I want -- I -- not just a bald statement this person wasn't credible. You're going to need to give me examples of where they were impeached, where they showed a lack of credibility, a lack of reliability.

[Emphasis added.]

[46] Mr. Wang's trial counsel filed lengthy written submissions, which contained three-and-a-half pages dealing with credibility issues and arguments to the effect that the judge ought to prefer Mr. Wang's evidence to that of the Li Family.

[47] Mr. Wang retained new counsel for this appeal who submitted that Mr. Wang's trial counsel failed to conduct proper cross-examinations, particularly of Ms. Li, and failed to make adequate submissions on credibility and other factual issues. During his submissions, Mr. Wang's counsel referred to several issues that he would have raised, questions he would have asked, arguments he would have made, and the like, had he been trial counsel. On one occasion, he intimated that trial counsel was "incompetent".

[48] As this Court recently explained in *Ke. v. Zhang*, 2025 BCCA 245:

[24] This Court has consistently held that, in civil appeals, arguments relating to ineffective assistance of counsel "will succeed only in extraordinary circumstances": *Jagpal v. Samra*, 2024 BCCA 384 at para. 46; *Nguyen v. 1108911 B.C. Ltd.*, 2024 BCCA 48 at para. 37, citing *D.W. v. White* (2004), 189 O.A.C. 256 at para. 55 [leave ref'd [2004] S.C.C.A. No. 486]. There are several reasons for this.

- [25] First, any grievance about the performance of the appellant's own trial counsel will generally be a matter between the appellant and the lawyer. The proper avenue of redress for such a grievance is generally a civil claim against the lawyer: Jagpal at para. 46; Nguyen at para. 34.
- [26] Second, complaints about the performance of an appellant's own trial counsel will almost invariably have nothing to do with the respondent. It is generally unfair to visit the consequences of the appellant's alleged improper representation at trial upon an innocent respondent: Jagpal at para. 46; Nguyen at para. 33.
- [27] Third, civil cases generally do not involve intrusions upon liberty, state-imposed sanctions, or the determination of Charter-protected interests giving rise to an overarching concern about the conduct of counsel and its impact on the integrity of the justice system: Nguyen at paras. 30, 32.
- [28] Fourth, the proper litigation of an appeal alleging ineffective assistance of counsel often requires additional procedural steps, including fresh evidence, and possible determinations as to the scope of waiver over solicitor-client privilege. Where these steps are not taken, the appeal court will only have a "partial picture" of what transpired between trial counsel and the appellant: Nguyen at paras. 30-31.
- [29] To sum all of this up, "the nature of the interests engaged, finality, issues of process and evidence, the role of a respondent in a civil appeal, fairness to the respondent in a civil appeal, and the availability of an alternative remedy that can provide an appellant with redress", all weigh heavily against a successful appeal based on ineffective assistance of trial counsel in a civil matter: Nguyen at para. 35.
- [30] Civil appeals based on ineffective assistance of counsel will only be viable in "the rarest of cases" or in "extraordinary circumstances": Nguyen at paras. 36-37, citing D.W. at para. 55; Mediatube Corp. v. Bell Canada, 2018 FCA 127 at para. 41. Such extraordinary circumstances might arise where there is "some overriding public interest", where "the interests of vulnerable persons like children or persons under mental disability" are at stake, or where "one party to the litigation is somehow complicit in the failure of counsel opposite to attain a reasonable standard of representation": D.W. at para. 55.
- [49] Ineffective assistance of counsel was not raised as a ground of appeal. I will place no significance upon counsel for Mr. Wang's submissions as they relate to alleged acts or omissions of trial counsel and their impact upon the judge's findings. In addition, counsel's discretionary decisions whether to ask or refrain from asking questions or to concentrate on certain arguments to the exclusion of others are clearly insufficient to approach the high threshold for ineffective assistance of counsel in the civil context.

Credibility

- [50] In his factum in the family law appeal, Mr. Wang submits that the judge erred in finding that the Li Parents' evidence was credible "without applying proper legal principles governing the assessment of credibility". In his factum on the civil appeal, he says that the judge failed to demonstrate that he "seized the substance of the critical issues" in assessing the parties' credibility.
- [51] Mr. Wang argues that the trial judge made a palpable and overriding error in finding that the BC properties were bought with assets originating in China and in assuming that the Li parents owned these properties. These Chinese assets included, but were not limited to, the Jin An Garden properties. Mr. Wang submits that the judge erred in accepting Mr. Li's evidence that Ms. Li held the Chinese assets in trust for her parents without engaging with certain inconsistencies in Mr. Li's evidence and with the fact that Mr. Li's evidence appears to have been contrary to the documentary evidence discussed above.
- [52] I have summarized above the judge's findings regarding the witnesses' credibility. This trial involved approximately 18 days of evidence (albeit with the assistance of interpreters). There were four key witnesses, being the Li Parents, Mr. Wang, and, to a lesser extent, Ms. Li. The reasons for judgment amount to over 200 paragraphs and include a detailed review of the evidence on the issues as raised by the parties. In short, it is clear to me that the record was extensive and that the judge thoroughly considered the parties' evidence.
- [53] The judge began his analysis by identifying the appropriate credibility principles, referring to the cases of *Youyi Group Holdings (Canada) Ltd. v. Brentwood Lanes Canada Ltd.*, 2019 BCSC 739 at paras. 87-93; *Allen v. Figueira*, 2020 BCSC 1864 at paras. 91-94; and *Fu v. Zhu*, 2018 BCSC 9 at paras. 39-42.
- [54] Mr. Wang submits that the judge erred insofar as he "gave overarching importance to the demeanour" of the various witnesses, "even though this is only a small element of any proper analysis of credibility". I cannot accede to this submission. To the extent that the trial judge considered the witnesses' demeanour, I would note that a witness's credibility may be undermined where they are evasive, long-winded, and argumentative in their responses to questions, as the trial judge found Mr. Wang to be: *Youyi* at para. 92, citing *Bradshaw v. Stenner*, 2010 BCSC 1398 at paras. 191-192. That being said, giving evidence is a stressful experience, and social and cultural factors may influence an individual's demeanour in ways that have nothing to do with their credibility or reliability. In this case, however, the judge also referred to the consistency of the parties' oral testimony with the documentary evidence and also, at various points, considered the plausibility of the accounts given by the witnesses. I see no error in this approach.
- [55] Mr. Wang also relies on purported inconsistencies between the Li Family's evidence at trial and the pleadings and evidence in their first civil claim against Mr. Wang, which was commenced in 2018. He says that it is an abuse of process to take inconsistent factual positions in separate proceedings (citing *Pepper's Produce Ltd. v. Medallion Realty Ltd.*, 2012

BCCA 247 at paras. 26-27 and First Majestic Silver Corp. v. Davila Santos, 2012 BCCA 5 at para. 27) and that the judge ought to have dealt with these inconsistencies in his reasons, specifically by rejecting the Li Family's evidence. However, Mr. Li was only briefly cross-examined on the 2018 notice of civil claim, and this examination did not encompass what Mr. Wang now submits on appeal, namely that the different wording between the 2018 and 2019 pleadings was material to the issue of credibility.

[56] Given what appears to have been a strategic decision by trial counsel, there would have been no evidentiary basis for the trial judge to make the adverse credibility finding sought by Mr. Wang. I would add that this argument was not raised by Mr. Wang in his trial counsel's written submissions. For both of these reasons, I would not accede to this ground of appeal.

The Family Law Appeal

The Section 106 Ruling

[57] Central to Mr. Wang's position at trial was his submission that the Jin An Garden properties constituted family property. The trial judge declined to exercise jurisdiction in relation to this property, pursuant to his discretionary authority under s. 106 of the FLA which provides in part:

106(4) Despite subsection (2), a court may decline to make an order under this Part if the court, having regard to the interests of the spouses and the ends of justice, considers that it is more appropriate for jurisdiction to be exercised outside British Columbia.

106(5) In determining whether to decline jurisdiction under subsection (4), the court must consider all of the following:

[]

- (b) the relative convenience and expense for the spouses and their witnesses;
- (c) if section 108 [choice of law rules] applies, the law to be applied to issues in the proceeding;
- (d) the desirability of avoiding multiple proceedings or conflicting decisions in different courts or tribunals;
- (e) the extent to which an order respecting property or debt
- (i) made in another jurisdiction would be enforceable in British Columbia, and
- (ii) made in British Columbia would be enforceable in another jurisdiction;
- (f) the fair and efficient working of the Canadian legal system as a whole;
- (g) any other circumstances the court considers relevant.

106(6) A determination of authority under subsection (2) or of whether to decline jurisdiction under subsection (4) is to be made solely by reference to this section.

- [58] In essence, Mr. Wang submits that the trial judge's reasons contain a material contradiction: while purporting to decline jurisdiction over the Chinese assets-- which he argues was a "critical factual issue"--the judge nevertheless "proceeded to assume and find that the answer to this question was as stated by the Li Parents, namely that [the] assets in China were all held in trust". In Mr. Wang's submission, this purported contradiction is fatal because the judge's conclusion that the BC properties are not family property was predicated on the assumption that the funds used to purchase the properties came from the Li Parents and not from property beneficially owned by Ms. Li.
- [59] At the hearing of this appeal, counsel for Mr. Wang conceded that if the judge did not err in the credibility findings underpinning his conclusion that the Li Parents originally advanced the funds to acquire the BC assets, then there can be no reviewable error in his conclusions under s. 106(4), which related to the question of what the parties owned as of the date of separation. As I understand counsel's submissions, this would be on the theory that the judge implicitly found that the funds used to initially acquire the BC assets were traceable exclusively to properties beneficially owned by the Li Parents. Counsel accepted that if there was no reviewable error as to the ownership of the properties as of their date of acquisition, the s. 106 issue would effectively "fall away".
- [60] This Court addressed the proper approach to s. 106 in *Jiang v. Shi*, 2017 BCCA 276, which the judge did not refer to in his reasons. In *Jiang*, Hunter J.A. held that the first question to be asked when deciding whether to decline jurisdiction under s. 106 is whether an order respecting property division, respecting the same spouses, may be made in more than one jurisdiction: at para. 24. As noted in *Jiang*, this requirement is consistent with the common law requirement that where a party raises an issue of *forum non conveniens*, that party must establish, among other things, that there is another forum "with an appropriate connection under the conflicts rules that should be allowed to dispose of the action" and that the alternative forum is more appropriate: see *Club Resorts Ltd. v. Van Breda*, 2012 SCC 17 at para. 103.
- [61] The judge did not address this legal requirement. In the absence of a finding that an order respecting the family property division could be made in China, it was not open to him to decline to exercise jurisdiction under s. 106. While he did refer to some litigation involving the properties that had already taken place in China, these proceedings did not concern the family property division between Ms. Li and Mr. Wang (neither of whom were parties) and did not address the Li Family's respective ownership interests in the disputed properties.
- [62] Parenthetically, I would add that in *Jiang*, Hunter J.A. also emphasized the "mandatory nature" of the factors identified in s. 106(5), drawing particular attention to the court's obligation to consider whether and how the choice of law rules set out in s. 108 of the FLA apply: at para. 30. The provisions of the FLA, and this Court's decision in *Jiang*, required a clear engagement with s. 108 and the considerations enumerated in s. 106(5) which the judge did not perform.

- [63] While I am of the view that the judge did err in principle in his approach to s. 106 of the FLA, these errors were not material to the outcome, given his other findings and analysis. Accordingly, I would not find any reviewable error in the judge's ultimate conclusions and orders.
- [64] This is because even if the judge ought not to have declined to exercise jurisdiction in respect of the Jin An Garden properties, and should have considered the question of ownership in accordance with British Columbia law, there was a reasonable evidentiary basis for him to conclude that Ms. Li held the property in trust for her parents.

The BC Properties

- [65] During the hearing of this appeal, Mr. Wang's counsel conceded that it was open to the judge, on the evidence, to conclude that the funds used to purchase the West 7th Avenue and Rockbank Houses were advanced by the Li Parents. Mr. Wang's challenge, however, was focussed upon the underlying credibility assessment that supported the judge's conclusion on this question. Since I would conclude that the judge made no reviewable error in assessing the parties' credibility, this is sufficient to dispose of this ground of appeal.
- [66] Ultimately, given that I would uphold the judge's conclusions as to the parties' credibility, I am satisfied that the judge made no reviewable error in concluding that the BC properties were held in trust for the Li Parents.

The West Ask Shares

- [67] The judge concluded that the West Ask shares did not constitute family property because, as of the date of separation in 2019, neither Ms. Li nor Mr. Wang held any shares in the company.
- [68] Mr. Wang, focussing on the judge's credibility analysis, advances arguments with respect to these findings that are similar to those he makes with respect to the BC properties. My conclusions relating to the judge's credibility findings and his findings as to the ownership of the BC properties also apply to this ground of appeal. In my view, it was open to the judge, on the evidence, to conclude that the West Ask shares were not family property as of the date of separation. This evidence included:
- a) West Ask's incorporation documents;
 - b) Mr. Li's testimony that Mr. Wang advised him to purchase the Aberdeen Square units and that he understood that a new company in which the Li Parents would hold all the shares would be created for this purpose (although Mr. Wang in fact used West Ask for the acquisition: at para. 113);

- c) Mr. Li's testimony that when he came to understand that he and Ms. Peng were not West Ask's sole shareholders, he insisted that Mr. Wang rectify the situation, and Mr. Wang prepared a document for West Ask's corporate minute book indicating that the Li Parents each held a 50% interest in West Ask; and
 - d) Mr. Li's testimony that he had a lawyer prepare a further share transfer document indicating that all West Ask shares were held by himself and Ms. Peng, and that this document was signed by Mr. Wang and Ms. Li in or around March 2019 (prior to the date of separation).
- [69] Mr. Wang submits that the evidence presented by the Li Family at trial, and particularly by Mr. Li, contradicts the claims made in the 2018 notice of civil claim. As I have noted, Mr. Li was only briefly cross-examined on the 2018 notice of civil claim and this examination did not touch upon the differences or similarities between the 2018 and 2019 claims.
- [70] I would conclude that Mr. Wang has not identified any reviewable error regarding this ground of appeal.

Ms. Li's Guidelines Income

- [71] Mr. Wang also challenges the judge's determination of Ms. Li's income for the purposes of determining her child support obligations under the Child Support Advisory Guidelines. He says that the judge's decision not to impute income to Ms. Li in addition to that recorded on her T1 tax return was grounded in his decision not to make a determination with respect to the ownership of the Chinese properties but then to proceed upon the assumption that the Li Parents owned all of the properties.
- [72] I see no reviewable error in the judge's analysis. Support orders attract a special degree of deference on appeal: *Hinz v. Davey*, 2022 BCCA 232 at para. 33, citing *Hickey v. Hickey*, [1999] 2 S.C.R. 518 at para. 12. As I have explained, there was evidence upon which the judge could have determined that the Li Parents beneficially owned all the Chinese properties, including those nominally registered in Ms. Li's name. Whether to impute additional income to Ms. Li was a matter within the judge's discretion such that appellate deference is owed absent an error in principle or misapprehension of the evidence: *Barendregt v. Grebliunas*, 2022 SCC 22 at paras. 100-104. Mr. Wang has established neither; accordingly, I would not accede to this ground of appeal.

The Civil Appeal

The AXKA Investment Funds

- [73] In the civil claim, the Li Parents claimed that Mr. Wang misappropriated \$1,400,000 from their bank accounts to invest in AXKA, a corporation created by Mr. Wang. The monies were withdrawn from the Li Parents' accounts in two tranches: \$400,000 in August 2015 and \$1,000,000 in March 2016. The judge found that the first tranche was in fact an investment by the Li Parents, but that the \$1,000,000 withdrawal was without the Li Parents' consent and amounted to a misappropriation and conversion of the funds.
- [74] Certain of Mr. Wang's submissions on this issue dealt with the judge's credibility findings and allegations of inconsistency between the Li Parents' claims in their 2018 and 2019 notices of civil claim. I will not repeat my observations and conclusions regarding Mr. Wang's challenges to the judge's credibility findings which also apply here.
- [75] Mr. Wang also challenges the judge's decision not to consider a limitations defence to the claim of misappropriation of funds in relation to the transfers to AXKA. The judge did so on the basis that such a defence had not been pleaded: at para. 135. Mr. Wang points to the fact that the tort of conversion, being the basis for this liability, had itself not been pleaded.
- [76] In particular, he challenges the judge's reliance on *Chouinard v. Army & Navy Dept. Store Ltd.*, 2008 BCCA 353, having cited *Chouinard* for the proposition that the court need not consider a limitations defence where no such defence has been pleaded in a defendant's response to civil claim. In Mr. Wang's submission, *Chouinard* simply stands for the general proposition that "a court should only adjudicate claims that have in fact been articulated in the pleadings", and the judge made a legal error when he "chose to adjudicate a claim that had never been made, namely a claim in conversion".
- [77] I would not accede to this argument for two reasons.
- [78] First, Mr. Li testified that he initially became aware of the misappropriation of \$1,000,000 (for which Mr. Wang was found liable) in 2018. His evidence was that he was aware that \$1,000,000 had been withdrawn from his and Ms. Peng's accounts in 2016, but that he had been under the impression that the funds would be transferred to the account of one of their companies and had given clear instructions to Mr. Wang to that effect. He also testified that he only became aware that the funds had been transferred to AXKA in 2018, when he saw the bank draft by which Mr. Wang had effected the transfer. On cross-examination, Mr. Li stated that he did not have a "clear recollection" of when he first discovered that Mr. Wang had transferred the \$1,000,000 to AXKA but that it was after Ms. Li told him what had occurred. For Ms. Li's part, her evidence was that Mr. Wang told her that he had transferred the funds to AXKA towards the end of a 2019 trip they took to the United States. While the precise time at which the Li Family discovered the misappropriation of funds is difficult to determine, and while there are some gaps and inconsistencies in the evidence, there was evidence in the record from which it could reasonably be found or inferred that the nature of Mr. Wang's actions only became apparent to the Li parents as of 2018. Had the claim for conversion been specifically pleaded in the 2019 notice of civil claim, it would not have been

statute barred. Accordingly, the judge's decision not to consider the limitations defence, even if arguably erroneous, was of no practical significance to the outcome of this case.

- [79] Second, as the Li Parents submit, pleadings must contain material facts necessary to establish a cause of action, but that cause of action need not be expressly identified in the pleadings: *Strauss v. Jarvis*, 2007 BCCA 605 at para. 6; *Paton Estate v. Ontario Lottery and Gaming Corporation (Fallsvue Casino Resort and OLG Casino Brantford)*, 2016 ONCA 458 at para. 14. In other words, it is for the court, and not for the parties, to determine the legal salience of the facts pleaded. When I consider the 2019 notice of civil claim in its entire context, I can find no error in the judge's decision to adjudicate the claim in conversion based on the facts pleaded.

The West Ask Assets and "Shareholder Loans"

- [80] At trial, West Ask claimed that in 2017, Mr. Wang misappropriated \$65,000 from West Ask (transferring it to AXKA). It also alleged that in 2018, Mr. Wang misappropriated a further \$280,000, which he obtained after selling the Aberdeen Square property to a third party. Above, I summarized the judge's findings and conclusions on this issue. On appeal, Mr. Wang does not take issue with the fact that he took the funds "to finance his expenses".
- [81] In Mr. Wang's submission, he used the funds for personal expenses, and maintains that in the case of private companies, this is permissible if the use of funds is "properly accounted for as advances/loans by the corporate entity to the shareholder". He says that he and Ms. Li had previously used West Ask's property for personal purposes and also "provided management services to West Ask and provided shareholder loans to West Ask". In light of this, Mr. Wang submits that the "better view of the situation is to view the taking of corporate funds as a draw from West Ask which is to be offset by any money West Ask may owe to [Mr. Wang], for example for his services or as part of his share of the Shareholder loans advanced by [Ms. Li] (which are family property)."
- [82] West Ask submits that there was no evidence that any of the funds were accounted for as an advance or a loan to Mr. Wang, and that Mr. Wang's evidence at trial was that he took the \$280,000 not to offset money owed to him by West Ask but because he feared his accounts would be frozen due to pending litigation with the Li Family. West Ask submits that there was no evidence given at trial that West Ask owed Mr. Wang money for services or that the "shareholder loans" indicated on certain of West Ask's balance sheets represented contributions from himself or Ms. Li.
- [83] As the judge observed, Mr. Wang did not give any evidence that his 2018 withdrawals from West Ask were intended to offset monies owed to him by the company: at para. 143. Rather it was that he used the funds for personal expenses, including in anticipation of litigation involving the Li Family. With respect to the 2017 withdrawals, Mr. Wang did maintain that the funds were taken in satisfaction of what would amount to a debt, but this does not affect my analysis of this issue. First, the judge's assessment of Mr. Wang's credibility is to be deferred to, and Mr. Wang has identified no documentary evidence that would corroborate

his testimony on this point. Furthermore, whether there was such a debt or not is irrelevant given that Mr. Wang lacked the legal authority to make withdrawals from West Ask at the time of the 2017 withdrawals.

- [84] Ultimately, there was a body of evidence, to which the judge referred in the reasons, that provided a factual basis for his conclusion that Mr. Wang misappropriated funds from West Ask which included (at paras. 141-150):
- a) West Ask's corporate records, indicating that Mr. Wang was not a director of the company in 2017;
 - b) Mr. Wang's failure to explain what services AXKA rendered to West Ask and his failure to provide any documentation of a contract that might entitle AXKA to the \$65,000 withdrawn in 2017;
 - c) A corporate notice filed by Mr. Wang reinstating him as director of West Ask as of March 26, 2018; and
 - d) Mr. Wang's testimony that he sold the Aberdeen Square property to obtain money for himself.
- [85] In light of the judge's credibility findings and this evidence, Mr. Wang has identified no reviewable error in the judge's conclusion that he misappropriated funds from West Ask.

The Jewelry

- [86] The judge found that Mr. Wang committed the tort of conversion when he removed Ms. Peng's jewelry from its safety deposit box and refused to return it. Mr. Wang does not challenge the judge's finding that he is liable in conversion as a consequence of these acts. He maintains, however, that the judge erred in setting the amount of damages at the items' purchase price of \$378,300. In particular, he submits that in order to prove their damages, plaintiffs must always establish the fair market value of the property at the time of the conversion and that the Li Family failed to do so (relying upon *Grosvenor Fine Furniture (1982) Ltd. v. Terrie's Plumbing & Heating Ltd.*, [1994] 1 W.W.R. 275 at para. 35 (Sask. C.A.)).
- [87] It is true that damages are ordinarily to be assessed as of the date of conversion: Jennifer Leitch and Allan Hutchinson, eds., *Remedies in Tort (Volume One)* (Carswell, 2023) at s. 4:20. However, Mr. Wang has provided no authority to suggest that this is an inflexible rule of law in this province, and I am aware of none.
- [88] In my view, where there is some evidence upon which a judge may fix damages, the law ought not to deprive plaintiffs of compensation where they are unable to obtain a more precise valuation by reason of the defendant's actionable wrongdoing. As a general proposition, a party must prove their damages with as much "certainty and particularity as is reasonable, having regard to the circumstances and to the nature of the acts themselves by which the damage is done": *Ratcliffe v. Evans*, [1892] 2 Q.B. 524 C.A. at 532-533; cited in

Vancouver Canucks Limited Partnership v. Canon Canada Inc., 2015 BCCA 144 at para. 146. For the Li Family to establish the fair market value of the jewelry as of the time of the conversion, the items would need to be appraised. It is absurd for Mr. Wang to suggest that damages can only be assessed in that manner, given that his wrongful taking of the jewelry and refusal to return it are the reasons why it would be impossible for the Li Family to obtain an appraisal in the first place.

[89] The judge did what he could based on the evidence that was led on this issue: on this point, see Rong v. Tan, 2024 BCCA 352 at para. 71, citing Guang v. WEX Pharmaceuticals Inc., 2013 BCSC 1949 at para. 307. A trial judge's assessment of damages will not be interfered with unless an appellant demonstrates that the judge erred in principle, that there was no evidence upon which the judge could have reached their conclusion, or that the result reached at trial was a "wholly erroneous" estimate of the damages suffered: Pearson v. Savage, 2020 BCCA 133 at para. 51. In my view, no reviewable error has been identified with respect to the judge's decision to assess damages based on the purchase price of the jewelry. I would not accede to this ground of appeal.

Conclusion

[90] The trial judge's determinations of credibility and findings of fact were all open to him on the evidence. In my view, Mr. Wang has failed to establish any reviewable error which affect the orders made at the trial.

[91] I would dismiss both appeals.

"The Honourable Mr. Justice Abrioux"

I AGREE:

"The Honourable Madam Justice Horsman"

I AGREE:

"The Honourable Justice Iyer"

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