

CANADA / JUDGMENT

Wu v. Wu

2013 BCSC 505

COURT

Supreme Court of British Columbia

DECIDED

22 March 2013

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2013 BCSC 505 Wu v. Wu IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Wu v. Wu, 2013 BCSC 505 Date: 20130322 Docket: E081952 Registry: Vancouver Between: Fook Michael Wu Claimant And Patsy Yin Tong Lai Wu, Hong Kong Bank Trust Co. Inc. and Wood-Lawn Trust Respondents Before: The Honourable Mr. Justice D.A. Betton Reasons for Judgment Re: Costs Counsel for the Claimant: P.R. Lundrie Counsel for the Respondent, P. Wu: T. Yu Counsel for the Respondents, Hong Kong Bank Trust Co. Inc. and Wood-Lawn Trust: M.S. Kerwin Place and Date of Trial/Hearing: Vancouver, B.C. November 14-18, 21 and 22, 2011 Written Submissions on Costs: March 15 and 18, 2013 Place and Date of Judgment: Vancouver, B.C. March 22, 2013

- [1] This decision deals with the issue of costs as it relates to the defendant, Hong Kong Bank Trust Co. ("HSBC"). I delivered a decision on the majority of the substantive issues arising in the trial in January 2012, but did not address costs.
- [2] Supplementary reasons addressing the remaining substantive issues and costs as between the plaintiff and the defendant, Patsy Yin Tong Lai Wu, were given on October 12, 2012. That decision did not deal with the question of costs as it relates to HSBC.
- [3] The plaintiff's claim was in relation to property registered in the name of the HSBC located at 6666 Marguerite Street in Vancouver, B.C. That property had been the matrimonial home of the plaintiff and the defendant, Patsy Wu.
- [4] The defendant, Patsy Wu, filed a counterclaim seeking relief under the Family Relations Act, R.S.B.C. 1996, c. 128.
- [5] The statement of claim included a claim for damages as against HSBC and a declaration that the property was a family asset and that it be removed from the trust. The plaintiff abandoned its claim for damages against HSBC and was unsuccessful in his claims against the property. Patsy Wu was awarded costs.
- [6] HSBC had very limited involvement in the trial having been excused, at its request, on the first day of trial from further attendance. It had, however, necessarily filed a statement of defence and attended a trial management conference. It says that in the circumstances, it should be entitled to its costs having been required to respond to the claim.

- [7] The plaintiff says that, in essence, his claim was against Patsy Wu, and HSBC was only peripherally involved because it was the trustee of the property, which was the focus of the claim. The plaintiff argues that, in all of the circumstances, there should be no order of costs in favour of HSBC or, alternatively, that it be awarded nominal costs or, in the further alternative, that it receive costs at Scale A.
- [8] HSBC acknowledges that its role in the litigation was limited and that its bill of costs would reflect that. It says, however, that that fact should not be a reason to deny it its entitlement to costs.
- [9] I agree generally with HSBC. The plaintiff had advanced a claim in respect of the property but also, at least at the outset, had claimed damages against HSBC. That portion of the claim was abandoned. In any event, HSBC was required to take steps to defend the claim against it. The plaintiff was unsuccessful in respect of any element of its claim that affected the interests of HSBC.
- [10] In the circumstances, it is my conclusion that HSBC should have its costs; however, those costs should be at Scale A of Appendix B. The issues affecting HSBC in the context of this case are properly characterized as having little or less than ordinary difficulty. "D.A. Betton, J." The Honourable Mr. Justice Betton

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