

CANADA / JUDGMENT

Xue v. Zhang

2024 BCSC 2152

COURT

Supreme Court of British Columbia

DECIDED

8 November 2024

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2024 BCSC 2152 Xue v. Zhang

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Xue v. Zhang,

2024 BCSC 2152

Date: 20241108

Docket: E191294

Registry: Vancouver

Between:

Lian Xue

Claimant

And

Wenbao Zhang, Sanbao Ren Tai International Holding Investment Inc., and

Miracle Tree Group (Enterprise) Inc.

Respondent

Before: The Honourable Justice Kent

Oral Reasons for Judgment

Counsel for the Claimant:

M. Sodagar

E. Jalilian

Counsel for Sanbao Ren Tai International Holding Investment Inc. and Miracle Tree Group (Enterprise) Inc.:

B. Lin

No other appearances

Place and Dates of Trial:

Vancouver, B.C.

October 21-24, November 1 and 8, 2024

Place and Date of Judgment:

Vancouver, B.C.

November 8, 2024

- [1] These are the oral Reasons for Judgment issued immediately following the conclusion of the trial of this family law case. This written version of the Reasons contain some minor edits for punctuation and grammar. It also includes an additional direction to counsel regarding her written submissions.
- [2] This is an unusual case. The Father, who has been residing in China for several years, has essentially abandoned his family here in Canada both physically and financially. He has acquired a new "wife" in China with whom he now has another child.
- [3] While the Father originally abided by and paid the spousal/child support amounts required by the interim order of this court, he ceased payment altogether in early 2024. He initially hired counsel to represent him in this family law proceeding but he discharged counsel earlier this year and has neither attended nor participated in the proceeding since. He did not attend trial and the case against him was essentially undefended.
- [4] The Mother named as Respondents in this proceeding two Canadian corporations owned or controlled by the Father. Those corporations were vehicles through which the Father channelled some of the funds necessary to support the family's wealthy lifestyle in Vancouver. The corporations were jointly represented by different legal counsel through trial, although a settlement was reached between the Mother and the corporations mid-trial and counsel thereafter withdrew.
- [5] The case involves the usual issues in a family law proceeding: divorce, parenting of the two children of the marriage, income determinations, child support, spousal support, and division of family property and family debt.

- [6] The Father is the scion of a wealthy family in China, a family which, through various corporations, has been a substantial and successful real estate developer in that country for many years. The full extent of the extended family property and other holdings in China has not been disclosed to the mother or to the court. The Mother has personal knowledge of some, but by no means all, of the Father's financial affairs in China.
- [7] The parties purchased a substantial matrimonial home in China, "the Dragon Bay Garden Property", which the family occupied during the years they lived in that country, although the Father was very frequently absent on business. The Father was and is the sole registered owner of that property, as he is with the matrimonial home here in Vancouver. He is the sole shareholder of the respondent Miracle Tree which owns two commercial rental properties here, fortunately overseen by a professional property manager.
- [8] The two children have always lived with their mother who played the so-called traditional homemaker role during the marriage. The children have always gone to private school, whether in China or here in Vancouver. Fortunately they appear to be doing reasonably well in challenging circumstances.
- [9] The Mother has an formal arts background but, although she has acquired a diploma in Interior Design since separation, she has not yet been able to make a living from either that occupation or her art. She does not have the financial means to pay for ongoing expenses and has had to rely on the generosity of family to fund basic needs. Debt, however, is mounting for unpaid mortgages, property taxes, car leases, school fees and the like. Her financial situation is precarious indeed.
- [10] In various pre-trial F8 Financial Statements and affidavits, the Father has claimed that he owns nothing, that any property/assets in his name are beneficially owned by his family, and that his income is very modest as befitting someone who is merely an "assistant" for his own Father's businesses. This evidence is not properly before me in this trial and, in any event, I would reject it as demonstrably untrue.
- [11] I accept the mother's testimony to the contrary along with the other documentary evidence adduced at trial to the same effect. He has stripped assets and cash from his corporations since separation and transferred away other assets to circumvent the Mother's property interests that crystallised upon separation. His wealthy lifestyle over many years puts the lie to his assertions and warrants imputing him substantial income for ongoing child and spousal support purposes. His failure to attend trial combines with his wrongful refusal to pay the amounts required by past court orders to very strongly militate in favour of in specie property distribution and lump sum support payments.

- [12] Counsel has provided the court with detailed but fairly balanced written submissions on the factual background of the case, the requested findings of fact informing each legal issue, and the requested outcome on each issue having regard to the applicable legislation and caselaw. She has also prepared and submitted the appropriate and necessary formal order in that regard.
- [13] I accept and adopt the Mother's written submissions. I make the findings of fact as requested, which I find to be fully supported by the evidence at trial. I agree the requested outcomes, including an order for divorce, are appropriate having regard to the facts of the case and the applicable law in this Province. I will therefore sign the formal order drafted by counsel and the Registry is directed to accept it for filing. A copy will be attached as an appendix to any written version of these oral Reasons for Judgment that may be released or published.
- [14] If she has not already done so, I direct counsel for the claimant to file in the Registry a copy of her final written submissions so that a record may exist of my findings of fact in this action for the purposes of any further steps in this litigation.
- [15] As noted, the Father did not attend trial to contest this case. He contacted counsel beforehand to advise of his intentions in this regard but provided no explanation. I have cast a critical eye over the Mother's written submissions to scrutinize their accordance with the evidence and the relevant law. I also asked questions and obtained clarification from counsel regarding various matters during submissions. However, it is not the court's role to act as an advocate for any deliberately absent litigant and the Father is very much the author of any misfortune he may perceive in the result.
- [16] The claimant is given leave to further apply to the court for any orders that may be necessary to give full effect to the property distribution that is being ordered by the court, including any obstacles she may encounter respecting perfecting transfers of title, rectification of corporate records, and the like.
- [17] Costs of these proceedings are awarded to the claimant against the Father. By consent, no costs are awarded to or against the two corporate Respondents.

"Kent. J"

Appendix A

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