

CANADA / JUDGMENT

Zhang v. Zheng

2025 BCSC 1290

COURT

Supreme Court of British Columbia

DECIDED

15 July 2025

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2025 BCSC 1290 Zhang v. Zheng IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Zhang v. Zheng, 2025 BCSC 1290 Date: 20250715 Docket: E211220 Registry: Vancouver Between: Zhuya Zhang Claimant And Hao Ren Zheng, also known as Haoren Zheng, Brighthill Capital Holding Ltd. (BC1083305), RNN Investments Ltd. (BC1074821), Huan Gang Zheng and Ming Zhang Respondents Before: The Honourable Justice A. Ross Reasons for Judgment Counsel for the Claimant: S. Chiu Counsel for the Respondent Brighthill Capital Holding Ltd. (BC1083305): T.H. Hopman Counsel for the Respondent Hao Ren Zheng: L. Newby Counsel for the Respondents RNN Investments Ltd. (BC1074821), Huan Gang Zheng and Ming Zhang: F. Lamer E. Leung, Articled Student Place and Date of Trial/Hearing: Vancouver, B.C. May 20, 2025 Place and Date of Judgment: Vancouver, B.C. July 15, 2025 Table of Contents Introduction.. 3 Issues. 3 Background Facts. 4 The Relationship. 4 The Personal Parties. 4 The Corporate Parties. 5 This Litigation and Related Litigation.. 6 The Claimant's Claims and the Respondents' Defences. 6 Application of Law to Facts. 9 Economic Disadvantage of Emma. 9 Is it appropriate to make an order that "levels the playing field" or provides for "balanced participation" in dispute resolution?. 10 Based on a preliminary assessment of the circumstances, is the prima facie case of "sufficient merit to warrant pursuit"?. 10 Has the applicant established the s. 89 requirements?. 11 Summary and Conclusion.. 12

Introduction

- [1] In this family law proceeding, the claimant applies under s. 89 of the Family Law Act, S.B.C. 2011, c. 25 [FLA], for an order that \$400,000 be paid to the claimant's solicitor as an interim advance to fund her litigation.
- [2] The notice of application requests the following order: Cheng and Leung Barristers and Solicitors, which holds the sum of \$3,127,986.28 as of November 21, 2024 in trust for all personal parties in this proceeding, shall forthwith release and transfer \$400,000 to the Claimant's solicitor, Clark Wilson LLP in trust.
- [3] The respondents in this action are the ex-husband, his parents, and three companies that the ex-husband operated. They all oppose the application.

[4] For the reasons set out below, I grant the order sought by the claimant.

Issues

- [5] The legal issue for me to decide derives from s. 89 of the FLA. In high overview, the test asks whether it is in the interests of justice to order the interim distribution. That broad question has been partitioned into its constituent elements in prior cases. The Court of Appeal in *Etemadi v. Maali*, 2021 BCCA 298 at paras. 50-53, set down the questions that a court ought to ask in considering these applications. Those paragraphs were synthesized by Master Robertson in *Porter v. Porter*, 2023 BCSC 2062:
- [30] The Court of Appeal in *Etemadi v. Maali*, 2021 BCCA 298, at paras. 50 to 53 established the questions a court ought to ask in consideration such an application as follows:
- a) Is the applicant economically disadvantaged in relation to the prosecution of the litigation or otherwise in pursuit of dispute resolution?
 - b) If so, is it appropriate to make an order that "levels the playing field" or provides for "balanced participation" in dispute resolution?
 - c) Based on a preliminary assessment of the circumstances, is the *prima facie* case of "sufficient merit to warrant pursuit"?
 - d) In considering the above, has the applicant established the s. 89 requirements, namely both that it would not be harmful to distribute property and that it is necessary for a purpose listed in s. 89, as a court should not order a distribution in an amount greater than what is required?
- [31] A presider must always exercise their discretion by deciding whether, in the particular circumstances of the case, it is in the interests of justice to grant the order sought (at para. 53).
- [6] There is no dispute between the parties on the applicable test. Background Facts The Relationship
- [7] I will describe and define the parties below. I find it helpful to describe the chronology first:
- a) The couple married on February 14, 2014, at Jinan, Shandong Province, China.
 - b) There is one child of the marriage: S., who is eight years old. She is a Canadian Citizen but primarily resides with the claimant in Jinan.
 - c) There is a dispute over the date of separation:
 - i. The claimant's position is that the parties separated on September 20, 2019. On that date, the husband informed the claimant of his intention to end their marriage. He sent her a draft separation agreement and a draft property division agreement, in Chinese, via WeChat. ii. The husband says they separated in February 2020. The Personal Parties

- [8] Due to the multiple Zhengs and Zhangs in this proceeding, I will use first names and monikers in these reasons. I mean no disrespect by doing so.
- [9] The claimant, Zhuya Zhang, is 35 years old. She goes by the name "Emma". She immigrated to Canada in July 2015 (after the wedding). She is a homemaker. Since 2020 she has been living in Jinan, China.
- [10] The respondent Hao Ren Zheng ("Hao Ren") is also 35 years old. He immigrated to Canada in 2009 when he was in high school. He is an investor and entrepreneur. During the marriage he travelled back and forth between China and Canada. Since 2019 he has primarily lived in China.
- [11] I refer to Emma and Hao Ren collectively, as the "Spousal Parties".
- [12] The other personal parties are Hao Ren's parents. Huan Gang Zheng is Hao Ren's father (the "Grandfather"), and Ming Zhang is Hao Ren's mother (the "Grandmother") (collectively, the "Grandparents"). According to the affidavit evidence, as of late 2023, the Grandfather was residing in China and the Grandmother was residing in Vancouver. At the hearing, counsel for the Grandmother revealed that she has been living in China for the past four months.
- The Corporate Parties
- [13] Hao Ren has, or had, three companies in British Columbia at materials times and during the marriage:
- a) The respondent Brighthill Capital Holding Ltd. ("Brighthill") is a company that Hao Ren incorporated on July 15, 2016 (during the marriage). Hao Ren continues to be the sole shareholder, director, and officer of Brighthill.
 - b) The respondent RNN Investments Ltd. ("RNN") is a company that Hao Ren incorporated on May 6, 2016 (also during the marriage). Hao Ren was the president, secretary, and sole shareholder of RNN. On October 21, 2019 (arguably after separation), he transferred all of his shares in RNN to the Grandmother.
 - c) 1083004 BC Ltd. ("004") is a company that Hao Ren incorporated on July 15, 2016 (also during the marriage). He continues to be the sole shareholder, director, and officer of 004. This
- Litigation and Related Litigation
- [14] On May 12, 2021, Emma commenced this family claim. On May 27, 2021, she obtained a s. 91 property restraining order against Hao Ren.
- [15] There was a parallel family law proceeding in the Jinan Lixia People's Court in China. On March 1, 2022, the Spousal Parties settled the action in China, including
- a) the issues of parenting (sole custody of S. granted to Emma),
 - b) monthly child support payable to Emma at the amount of \$1,368 (7,000RMB)
 - c) the division of property located in China.

- [16] The Grandparents also commenced an action in BC, claiming that any interest in any asset registered in the name of the Spousal Parties was held by way of a resulting trust in favour of the Grandparents. (By order dated June 8, 2023, the Grandparents' action and this action will be heard at the same time.)
- [17] In an important development, at a recent examination for discovery, and in the materials prepared for this application, the Grandparents fundamentally changed their legal position (i.e., away from an allegation of resulting trust). In their new affidavit material, they say that all of Hao Ren's assets were purchased or obtained with funds loaned to him by the Grandparents. The result of that change is that the claim of a resulting trust is not viable. Instead, the assertion is that Hao Ren owes funds to the Grandparents on the basis of the loans.
- [18] This action was scheduled for trial in 2023 but was adjourned because it needed more days. No trial date is currently set. The Claimant's Claims and the Respondents' Defences
- [19] In support of this application, Emma has provided a litigation budget prepared by counsel. The budget of \$306,756.30 estimates fees and disbursements (for future steps) through trial. Current arrears of legal fees are \$87,602.84. She says that the budget is reasonable in the circumstances, considering the delays she has experienced to date and the future steps, including interim applications, examinations for discovery, a 15-day trial, and the need of English/Chinese interpreters. In respect of the complexity of the litigation, she points to several issues, including the Grandparents' belated and contradictory positions on their property claim.
- [20] The main issues in this action revolve around Emma's claims for an interest in certain assets that, she says, are family assets. During the course of the marriage, Hao Ren controlled substantial assets including:
- a) The former family home on 35th Ave., valued at \$5,180,000 (the "Former Family Home"). It was registered in the names of the Spousal Parties and the Grandparents as joint tenants. From the sale of this property, \$3,127,986.28 remains in the solicitor's trust account described above.
 - b) An investment property at 4049 West 13th Avenue in Vancouver, registered in the name of RNN ("West 13th"). I understand RNN was renovating the premises and planning to sell it at a profit. On October 21, 2019 (arguably after separation), Hao Ren transferred all his shares in RNN to the Grandmother. The Grandparents' counsel commissioned an appraisal showing an estimated value of \$5,800,000. However, the property is currently assessed at more than \$7,000,000. The respondents, collectively, take the position that the liabilities incurred in purchasing and renovating this property outweigh the estimated value. In other words, the property is under water. That is not a claim that I can decide on this application.
 - c) Certain funds held by Brighthill. The evidence indicates:

- i. In 2018, Brighthill sold a commercial property in Coquitlam for \$3,971,676.70 and made a net profit of \$1,888,022.29; ii. In early 2018, Hao Ren deposited about \$3,000,000 into Brighthill's TD investment account; iii. In October 2019 (arguably after separation), Hao Ren transferred \$1,322,896.76 from Brighthill's TD investment account to the Grandmother; iv. In July 2020 (after separation), Hao Ren withdrew a further \$500,000 by international transfer; and
 - v. As of May 2023, \$542,667.24 remained in Brighthill's TD investment account.
 - d) Hao Ren holds Canadian bank and investment accounts (the "Canadian Accounts") in his own name. Around the time of separation, those accounts held \$2,207,815.57. Approximately, \$1,900,000 was either withdrawn or transferred out on December 18, 2019 (arguably after separation). Approximately \$300,000 remains in the Canadian Accounts.
 - e) Emma also says that Hao Ren possessed at least six vehicles during the marriage, including a Ferrari, a Lamborghini, a Rolls Royce, two Mercedes Benz, and a Toyota Sienna. The evidence establishes that two vehicles have been sold by Hao Ren. Hao Ren's affidavit #1 states that he does not have any vehicles in his name currently. He says that the funds used for the purchase or lease of vehicles were provided to him by his parents.
- [21] Emma's claim in the litigation is that she is entitled to an interest in all or some of those assets. On this application she focusses on the amounts in the Brighthill account (\$542,667.24) and the Canadian Accounts (\$300,000). She notes that her "ask" is less than half of those funds.
- [22] Hao Ren and the Grandparents note that the Spousal Parties married in their early 20s. They had not generated any substantial wealth. The claimant never worked outside of the home. To the extent that Hao Ren acquired assets, the only rational conclusion is that the Grandparents provided the funds for their acquisition.
- [23] As noted, the Grandparents take one of two positions regarding all of the assets:
- a) they were held in trust by the Spousal Parties; or
 - b) they were obtained with money loaned to Hao Ren by the Grandparents.
- [24] On that basis, the respondents say that the claimant has little or no claim to an interest in the assets she is pursuing in this litigation. Hence, any advance will endanger their financial position. Application of Law to Facts
- [25] With that background, I will now address the Etemadi principles. Economic Disadvantage of Emma
- [26] The evidence on this application establishes that, following the settlement of the litigation in China, Emma's assets consist of:
- a) two Canadian bank accounts holding approximately \$1,600;

- b) an account in China holding approximately \$190,000.
- [27] She relies on those funds, plus child support of \$1,368, for her monthly expenses. She also has financial support from her parents. Her annual "income" is comprised solely of the child support payments. There is no spousal support.
- [28] Hao Ren's assets are less clear. He has not filed a Form F8 - Financial Statement. His counsel submits that he has disclosed all of the documents required to determine his assets. That may be a correct statement, but he has sworn no affidavit setting out his assets. In my opinion he cannot benefit on this application from his failure to file the required documentation. On that basis alone, I would find that the claimant (given her circumstances) is disadvantaged as compared to Hao Ren.
- [29] Hao Ren has not produced income tax returns since 2021 because he has resided in China. On his filed returns, he reported annual income as follows:
- a) 2019: \$278,503.77 (the alleged year of separation);
- b) 2020: \$2,568.36 (the year after separation); and
- c) 2021: \$70,752.91.
- [30] I am satisfied that Hao Ren controls, or controlled, significant assets. The ultimate determination of Emma's claims to those assets will be a matter for trial. However, I am satisfied that the claimant will be economically disadvantaged in pursuing her claims if she does not receive an advance. Is it appropriate to make an order that "levels the playing field" or provides for "balanced participation" in dispute resolution?
- [31] Based on the evidence, I am satisfied that an order is necessary to level the playing field.
- [32] I note that the respondents' position is that the claimant should exhaust all of the funds that were paid out in the Chinese settlement agreement. I do not accept that submission. Taking that step would leave her with zero assets. Based on a preliminary assessment of the circumstances, is the *prima facie* case of "sufficient merit to warrant pursuit"?
- [33] I accept the submission that, in making a preliminary assessment of the merits, I should not attempt to resolve hotly contested issues or draw inferences on conflicting affidavit evidence (Etemadi at para. 51).
- [34] The respondents collectively place the most weight on this factor. They say that the evidence establishes that the Grandparents provided all of the funds for the acquisition of all the Spousal Parties' assets. Hence, the claimant's claim against those assets is weak.

- [35] Above, I outlined a significant problem faced by the respondents. They initially claimed that the assets were held by Hao Ren in circumstances that would give rise to a resulting trust. Recently, they switched the basis of their defence (and their claim) to allege that all the assets were acquired by way of a loan from the Grandparents. By itself, that fundamental switch creates a situation wherein Emma's claims have sufficient merit to meet this test.
- [36] Further, on this point, my understanding is that Hao Ren made a profit within Brighthill of approximately \$1,800,000. Counsel for the Grandparents was unable to provide a logical basis for the repayment of a "loan" (from the Grandparents) that would require Hao Ren to remit the profits achieved by Brighthill. This logical gap provides merit to Emma's claim.
- [37] Further, the claimant submits that the Former Family Home was registered in the name of the Spousal Parties and the Grandparents. Pursuant to s. 23 of the Land Title Act, R.S.B.C. 1996, c. 163, the fact that the title is registered in the names of the Spousal Parties gives rise to a rebuttable presumption that they are beneficial owners for each of their 25 percent of title. Hence, she argues, there is merit to her claim that at least half of the \$3,100,000 held in trust is, presumptively, family property.
- [38] I accept these three arguments on behalf of the claimant as establishing sufficient merit. I am satisfied that the claimant's claims are of sufficient merit to warrant pursuit. Has the applicant established the s. 89 requirements?
- [39] The next factor asks whether the applicant has satisfied the s. 89 requirements, namely:
- a) The payment would not be harmful to the interests of the spouse;
 - b) It must be necessary for a purpose listed in s. 89; and
 - c) I must not order a distribution in an amount greater than what is required.
- [40] I am satisfied that the claimant has met these tests.
- [41] First, in support of this application, she says that the proposed advance would not endanger Hao Ren's assets (if she were to lose at trial). She notes that Hao Ren continues to hold (see paras. 20(c)v. and 20(d) above):
- a) \$542,667.24 in Brighthill's account; and
 - b) approximately \$300,000 in the Canadian Accounts.
- [42] Although the claimant claims against several high-value assets, the funds she seeks on this application represent less than half of the funds held by Hao Ren in those accounts. Hence, if the claimant loses on all other issues, she still has a good claim to half of the funds in those accounts. Hao Ren's interests will not be harmed.
- [43] Secondly, as noted, the claimant needs the funds to pursue her claim against certain assets. That is a purpose described in s. 89.

- [44] Finally, the claimant's counsel has produced a litigation budget (described above). I find it to be reasonable given the probable size of the project that lies ahead. I do not understand the respondents to suggest that this will be simple litigation. Summary and Conclusion
- [45] Having reviewed the factors described above, I grant the application of the claimant.
- [46] The claimant has been wholly successful on this application and is entitled to her costs. "A. Ross J."
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