COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *MacAdams v. Grewal,*
2024 BCCA 367

Date: 20241104
Docket: CA49553

Between:

Douglas Patrick MacAdams doing business as MacAdams Law Firm

Appellant
(Petitioner)

And

Harminder Singh Grewal, Harbans Singh Grewal, Zora Singh Grewal, Malkiat Singh Baring, Satwant Kaur Baring, Baring Farms Ltd. and Wattie Law Corporation

Respondents
(Respondents)

Before: The Honourable Madam Justice Fenlon
The Honourable Mr. Justice Abrioux
The Honourable Madam Justice Horsman

On appeal from: An order of the Supreme Court of British Columbia, dated December 1, 2023 (*MacAdams v. Grewal*, 2023 BCSC 2121, Abbotsford Docket S02127).

The Appellant, appearing in person:	D.P. MacAdams, K.C.
Counsel for the Respondents Malkiat Singh Baring, Satwant Kaur Baring, Baring Farms Ltd.:	D.D. Nugent
Place and Date of Hearing:	Vancouver, British Columbia September 4, 2024
Place and Date of Judgment:	Vancouver, British Columbia November 4, 2024

Written Reasons by:
The Honourable Madam Justice Fenlon

Concurred in by:
The Honourable Mr. Justice Abrioux
The Honourable Madam Justice Horsman

Summary:

The appellant seeks a solicitor's lien against three of the respondent's assets, and determination of priorities to those assets. The respondent was the appellant's client for almost a decade and owed him $650,000 in unpaid legal fees. The judge granted the appellant a solicitor's lien against one asset but did not address the claims against the other two, finding previous orders required those claims to be addressed in a related action. The appellant says the judge interpreted the previous orders too broadly and should have addressed all three claims. Held: Appeal dismissed. The judge did not err in her interpretation of the orders.

Reasons for Judgment of the Honourable Madam Justice Fenlon:

Background

[1] The appellant, Douglas MacAdams, doing business as MacAdams Law firm, is one of a number of creditors of the respondent, Harminder Grewal. Mr. Grewal and his brother Harbans Grewal gained some notoriety after poisoning the entire blueberry crop on their farm on the eve of its forced sale in a foreclosure proceeding. Mr. MacAdams acted as Harminder Grewal's lawyer in relation to various matters over almost a decade. Mr. Grewal acknowledged in a consent order that he owes Mr. MacAdams $650,000 in unpaid legal fees.

[2] Mr. MacAdams filed a petition seeking a solicitor's lien against Mr. Grewal's assets. The judge hearing the petition declined to address Mr. MacAdams' application in relation to some of the assets, concluding that existing orders compelled him to seek relief in another proceeding. Her reasons are indexed at 2023 BCSC 2121. It is from that decision that this appeal is brought.

[3] For the purposes of this appeal, the following details will suffice. Mr. MacAdams applied for a lien against three of Mr. Grewal's assets:

> (i) $950,000 representing Mr. Grewal's share of the sale proceeds of the berry farm in the foreclosure proceeding, action H160499 (the "Money in Court");

(ii) $186,341.41 in Mr. MacAdams' trust account comprised of Mr. Grewal's share of proceeds for the operation of the berry farm for a period of time well before the foreclosure (the "Trust Account Fund"); and

(iii) Mr. Grewal's right to payment of costs from his brothers Zora and Harbans Grewal (the "Choses in Action").

[4] The judge hearing the petition granted Mr. MacAdams' claim for a lien against the Trust Account Fund but, as noted, declined to address his claim to the other two assets. The judge concluded that long-standing orders made in the proceeding brought by the unfortunate purchasers of the berry farm against the Grewal brothers (the "Spoliation Action") required all claims against the Money in Court to be addressed in the Spoliation Action.

[5] Mr. MacAdams contends the judge misinterpreted the Spoliation Action orders, and should have addressed the entirety of his petition. The only issue on this appeal is whether the judge erred in her interpretation of the two orders in question. I turn now to that issue.

Analysis

[6] On May 9, 2018, Justice Butler (then of the trial court) made the following orders in the Spoliation Action:

> 1. The funds presently in court to the credit of Supreme Court of British Columbia, Vancouver Registry Action H160499 [the foreclosure proceeding] be held in court and not paid out until further court order is made in this action on notice to the Plaintiffs and the Defendants herein, and on notice to the parties in Action H160499.
> 2. This Order will continue until further order of the court on notice to all parties in this action and action H160499.

On December 6, 2019, Justice Gomery made the following orders in the Spoliation Action:

> 1. Jenkins Marzban Logan LLP, Douglas Patrick MacAdams doing business as MacAdams Law Firm, and 1096214 B.C. Ltd. be added as parties to this action for the limited purposes of addressing the precise terms of the order after trial of November 15, 2019 and

> addressing the disposition of the funds held in court in Supreme Court of British Columbia, Vancouver Registry, Action No. H160499 [the foreclosure proceeding].
>
> 2. The style of proceeding in this action be amended to add Jenkins Marzban Logan LLP, Douglas Patrick MacAdams doing business as MacAdams Law Firm and 1096214 B.C. Ltd. as parties in accordance with the style of cause used in this order.
>
> 3. The costs of this application will be determined by the judge determining the distribution of the funds in court in Action No. H160499.
>
> [Emphasis added.]

[7] In determining that the above orders compelled Mr. MacAdams to resolve his claims to the Money in Court in the Spoliation Action, the judge said:

> [16] The existing orders in S02127 [the Spoliation Action] set out how the [Money in Court] is to be addressed. The petitioner, and another law firm were added to that style of cause specifically to reflect their interest in those funds.
>
> [17] The petitioner argues he is not seeking a payout order, rather only an order settling priorities amongst parties with a claim to the [Money in Court.]
>
> [18] Given the existing direction of this court for how disposition of the funds is to occur–which surely encompasses the issue of the priority of claims is–I decline to address it here.

[8] Mr. MacAdams contends the judge read the orders too broadly, which is an error of law reviewable on a standard of correctness. He submits that, interpreted correctly, Justice Butler's order was nothing more than a procedural safeguard to ensure that the plaintiffs in the Spoliation Action received notice in the event of an application for payment out in either the foreclosure proceeding or the Spoliation Action.

[9] Similarly, Mr. MacAdams contends the effect of Justice Gomery's order was to give all creditors with an interest in the Money in Court standing in the Spoliation Action in the event of any applications for payment out in that action. The appellant submits Justice Gomery's order says nothing about whether applications for allocation, payment out, or priority in relation to the Money in Court must be heard in one action or another.

[10] Finally, Mr. MacAdams says that even if the order compels such applications to be heard in the Spoliation Action, the use of the word "disposition" in the phrase "addressing the disposition of the funds" encompasses only applications for payment out—not applications to determine entitlement and priority to the funds. The appellant relies on the definition of "dispose" in the *Interpretation Act*, R.S.B.C. 1996, c. 238, s. 29, which states:

> 29 In an enactment:
>
> …
>
> "dispose" means to transfer by any method and includes assign, give, sell, grant, charge, convey, bequeath, devise, lease, divest, release and agree to do any of those things;

[11] Respectfully, I see no merit to this argument. The opening words of s. 29 make plain that the definition applies to statutes. It should go without saying that a court order is not a statute. As Mr. MacAdams acknowledged at the hearing of the appeal, orders are to be interpreted using the approach this Court outlined in *Yu v. Jordan*, 2012 BCCA 367 [*Yu*]. In that case, Madam Justice Smith, writing for the Court, said:

> [53] In my view, the interpretation of a court order is not governed by the subjective views of one or more of the parties as to its meaning after the order is made. Rather an order, whether by consent or awarded in an adjudicated disposition, is a decision of the court. As such, it is the court, not the parties, that determines the meaning of its order. In my view, the correct approach to interpreting the provisions of a court order is to examine the pleadings of the action in which it is made, the language of the order itself, and the circumstances in which the order was granted.
>
> [Emphasis added.]

[12] In *Yu*, the issue before the Court was whether relief in a family case had been granted under the *Divorce Act* or the *Family Relations Act,* when both the order and the reasons were silent on that point. The pleadings were therefore of some import. In the present case, the pleadings addressed the purchaser's claim against the Grewal brothers for spoliation and abatement, and had nothing to do with the addition of other creditors post-trial—parties who were added for the limited purpose of addressing the form of the order and disposition of the Money in Court. In these

circumstances, it is the reasons for judgment that provide important context. The relevant portion of Justice Gomery's reasons, indexed at 2019 BCSC 2479, are set out below:

> [9] With the issuance of my reasons for judgment this action is concluded, except for the expected application concerning the [Money in Court] and presumably the assessment of the plaintiff's costs.
>
> …
>
> [13] … [The] only substantive matter left to adjudicate in this action is the disposition of the [Money in Court.] Pursuant to Butler J's order and my trial judgment, the applicants will have an opportunity to address this question by virtue of their status as parties to the foreclosure proceeding.
>
> …
>
> [33] … There is a hearing yet to take place, and there are subtle and probably novel questions of priority to be addressed. I think it is fair that the applicants should have a say in the formulation of the order. For this purpose and in case it is necessary for the hearing of any application concerning the disposition of the [Money in Court], I will make the applicants parties to this proceeding.
>
> [Emphasis added.]

[13] In my view, these reasons support a reading of the order that encompasses determination of entitlement to and priority of claims, just as the judge concluded at para. 18 of her reasons for judgment.

[14] Mr. MacAdams commenced the petition underlying this appeal in an effort to efficiently address his claim to all of Mr. Grewal's assets, and priority pursuant to a solicitor's lien. In hindsight, that course of action has been anything but efficient. After two and a half days of court time, Mr. MacAdams' entitlement to the Trust Account Funds has been determined, but the remaining relief sought against the Money in Court and the Choses in Action remains outstanding.

[15] On another level, this appeal too has not served the interests of efficiency and proportionality. If the appeal were to be allowed, Mr. MacAdams' applications will proceed in the underlying petition proceeding as he first intended; if the appeal were to be dismissed, Mr. MacAdams' applications will be heard in the Spoliation Action. Either way, a further hearing of the applications will be required in the court below. At most, then, this appeal determines only in which proceeding the applications will

be heard. In such circumstances, and with great respect, there is much to be said for forgoing an appeal and simply getting on with the case.

Disposition

[16] For these reasons, I would dismiss the appeal.

"The Honourable Madam Justice Fenlon"

I AGREE:

"The Honourable Mr. Justice Abrioux"

I AGREE:

"The Honourable Madam Justice Horsman"