NOVA SCOTIA COURT OF APPEAL
Citation: ***Cook v. Cook***, 2003 NSCA 131

Date: 20031201
Docket: CA 200143
Registry: Halifax

Between:

Diane Joan Cook

Appellant

v.

Michael Weldon Cook

Respondent

Revised Decision:	The text of the original decision has been corrected according to the erratum dated December 9, 2003. The text of the erratum is appended to this decision.
Judge(s):	Glube, C.J.N.S.; Oland and Hamilton, JJ.A.
Appeal Heard:	December 1, 2003, in Halifax, Nova Scotia
Written Judgment:	December 5, 2003
Held:	Appeal dismissed with costs in the amount of $1,500.00, including disbursements, per oral reasons for judgment of Glube, C.J.N.S.; Oland and Hamilton, JJ.A. concurring.
Counsel:	B. Lynn Reierson, for the appellant Julia E. Cornish and Krista Attwood, for the respondent

Reasons for judgment:

[1] This is an appeal of the decision of Scanlan, J. of the Supreme Court of Nova Scotia dated April 11, 2002 (oral) and May 6, 2002 (written) and cited as **Cook v. Cook** (2002), 204 N.S.R. (2d) 167, and the corollary relief judgment dated April 14, 2003 where, among other things, the respondent was ordered to pay periodic spousal support to the appellant in the amount of $3,000 per month commencing May 1, 2002. The appellant appeals, alleging errors of law in the assessment of the level of spousal support. She seeks amendment of the corollary relief judgment to increase the amount of that support.

[2] The standard of review is set out in **Hickey v. Hickey**, [1999] 2 S.C.R. 518, where L'Heureux-Dube, J., writing on behalf of the Court, stated at ¶ 11 and ¶ 12:

> Our Court has often emphasized the rule that appeal courts should not overturn support orders unless the reasons disclose an error in principle, a significant misapprehension of the evidence, or unless the award is clearly wrong. These principles [page526] were stated by Morden J.A. of the Ontario Court of Appeal in **Harrington v. Harrington** (1981), 33 O.R. (2d) 150, at p. 154, and approved by the majority of this Court in **Pelech v. Pelech**, [1987] 1 S.C.R. 801, per Wilson J.; in **Moge v. Moge**, [1992] 3 S.C.R. 813, per L'Heureux-Dubé J.; and in **Willick v. Willick**, [1994] 3 S.C.R. 670, at p. 691, per Sopinka J., and at pp. 743-44, per L'Heureux-Dubé J.
>
> There are strong reasons for the significant deference that must be given to trial judges in relation to support orders. This standard of appellate review recognizes that the discretion involved in making a support order is best exercised by the judge who has heard the parties directly. It avoids giving parties an incentive to appeal judgments and incur added expenses in the hope that the appeal court will have a different appreciation of the relevant factors and evidence. This approach promotes finality in family law litigation and recognizes the importance of the appreciation of the facts by the trial judge. Though an appeal court must intervene when there is a material error, a serious misapprehension of the evidence, or an error in law, it is not entitled to overturn a support order simply because it would have made a different decision or balanced the factors differently.

[3] We have reviewed the record and the reasons of the trial judge and considered the various grounds raised by the appellant. We have not been persuaded that the trial judge erred in law or significantly misapprehended the evidence or that the decision is clearly wrong.

[4] The appeal is dismissed with costs in the amount of $1,500, including disbursements.

Glube, C.J.N.S.

Concurred in:

Oland, J.A.

Hamilton, J.A.

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Counsel:	B. Lynn Reierson and Krista Attwood, for the appellant Julia E. Cornish, for the respondent

Erratum:

[5] On the first page of the original judgment where counsel are listed, it reads,

> B. Lynn Reierson and Krista Attwood, for the appellant
> Julia E. Cornish, for the respondent

and it should read:

> B. Lynn Reierson, for the appellant
> Julia E. Cornish and Krista Attwood, for the respondent

Glube, C.J.N.S.