

NOVA SCOTIA COURT OF APPEAL
Citation: *Kedmi v. Korem*,, 2012 NSCA 124

Date: 20121214
Docket: CA 381259
Registry: Halifax

Between:

Iris Kedmi

Appellant

v.

Nahman Korem

Respondent

Judge: The Honourable Justice Peter M. S. Bryson

Appeal Heard: December 3, 2012

Subject: Settlement Agreement. Authority of counsel. Consent orders.

Summary: The parties, with assistance of counsel and the trial judge, negotiated a settlement agreement. Thereafter, appellant discharged her lawyer and could not agree with respondent's counsel on the form of order. The Judge drafted an order based on the record. The respondent raised a preliminary issue that there was no jurisprudence to hear appeal of a consent order, citing s. 39 of the *Judicature Act*, R.S.N.S. 1989, c. 240.

Issue: Appellant raised three issues on appeal:
(1) incompetency of her counsel;
(2) order did not reflect agreement;
(3) order too vague to be enforced.

Result: Appeal dismissed. It was unnecessary to decide preliminary objection of respondent because grounds of appeal could not succeed. Incompetency of counsel is not a ground of appeal in civil cases (court reserved on whether in rare cases of public interest such a ground might exist – this was not such a case).

Appellant's allegation of duress by her own lawyer not a valid ground of appeal. Respondent entitled to rely on solicitor's authority and appellant's own confirmation on the record that she agreed with settlement.

Judge did not err in drawing up order from terms agreed. Order not vague. Important not to confuse lack of certainty with interpretative difficulties which could be resolved by negotiation or resort to the court for ruling.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 9 pages.