SUPREME COURT OF NOVA SCOTIA
(FAMILY DIVISION)
Citation: Harrington v. Coombs, 2012 NSSC 47

Date: 2012 01 30
Docket: SFHPA-071113
Registry: Halifax

Between:

Bradley F. Harrington

Applicant

v.

Laurie A. Coombs

Respondent

ADDENDUM TO 2011 NSSC 141

Judge:	The Honourable Justice Leslie J. Dellapinna
Heard:	Motion by way of correspondence dated December 5, 2011
Counsel:	C. Robinson counsel for Bradley F. Harrington Laurie A. Coombs, Self-represented

By the Court:

[1] In the Court's order issued April 5, 2011 paragraph 9 says, among other things:

> "The court shall retain jurisdiction over any disputes that may occur as a result of the listing and sale of the Home."

[2] In a letter dated December 5, 2011 counsel for Mr. Harrington advised of a dispute between Mr. Harrington and Ms. Coombs with respect to the distribution of the proceeds from the sale of 206 Donegal Drive ("the Home"). The Home had been sold and the net proceeds amounted to $35,434.13.

[3] In his letter counsel advised that Mr. Harrington had authorized certain renovations and repairs to the Home prior to its sale and as well had purchased appliances that were placed in the Home which were included in the sale price. The repairs and the appliances came to $9,418.88. He asked that I order that the $9,418.88 spent by Mr. Harrington be shared equally between the parties from the gross sale proceeds before the net amount was divided equally between them.

[4] Since receiving that letter, which I am treating as a Motion by way of correspondence, I received other correspondence from Mr. Robinson and Ms. Coombs including:

- Ms. Coombs' letter of December 7, 2011;
- Mr. Robinson's letter of December 8, 2011 (to which were attached the various receipts for the expenses incurred);
- Mr. Robinson's letter of January 4, 2012 - advising that the parties had agreed on the payment of a joint loan from the sale proceeds;
- Ms. Coombs' letter of January 9, 2011 (it should have said January 9, 2012); and
- Mr. Robinson's letter of January 18, 2012 which was accompanied by Mr. Harrington's affidavit sworn January 17, 2012.

[5] I have reviewed all of this material.

[6] In Ms. Coombs original letter she raised a number of issues which Mr. Robinson described as an effort to re-litigate the trial that was held on January 14, 2011. They included the mortgage payments and who made them prior to the trial, the loan payments which Ms. Coombs argued Mr. Harrington should have paid

over the preceding two years, the effect of $3,000.00 which Ms. Coombs said Mr. Harrington took from joint loan proceeds in November 2009 and the effect of monies that Mr. Harrington may have received from his step-father's estate prior to the trial.

[7] I agree with Mr. Robinson. Those issues were or could have been raised at the trial. To deal with them now would, in effect, amount to a rehearing of the evidence that was or should have been presented at the January 14th hearing. I am not prepared to do that. Indeed, I do not believe I have the jurisdiction to do so. My jurisdiction is restricted to "disputes that may occur as a result of the listing and sale of the Home".

[8] Ms. Coombs also argued that the repairs and renovations done to the Home at Mr. Harrington's request were done over her objections.

[9] The e-mails that were exchanged between the parties show that at the end of March Ms. Coombs sent an e-mail to Mr. Harrington objecting to any renovations and, within a day or two, she sent him another e-mail essentially telling him that he could renovate the property "in anyway you so desire."

[10] I'm satisfied that Ms. Coombs was aware of the renovations and repairs that were taking place. I am satisfied too that Mr. Harrington had those renovations/repairs effected for no other reason than to enhance the salelability of the Home. The appliances were purchased and placed in the Home for the same reason. (He replaced the refrigerator, stove, washer, dryer and deepfreeze which were removed from the Home by Ms. Coombs.)

[11] The extent to which these repairs and purchases added to the ultimate sale price is anyone's guess.

[12] The Home ultimately sold for $14,000.00 less than the May 3, 2010 appraisal. However, without the repairs/renovations and appliances it is possible that the Home would have sold for less still or not at all. Both parties agreed to the sale price and both agreed the price included the appliances.

[13] To require Mr. Harrington to absorb 100% of these costs would be improper and would result in an unjust enrichment by Ms. Coombs at Mr. Harrington's expense that could not in any way be justified.

[14] Therefore the expenses of $9,418.88 will be shared by the parties equally by way of a reimbursement to Mr. Harrington before the remaining net sale proceeds are divided equally between the parties.

[15] In Ms. Coombs' original letter she also raised the allegation that Mr. Harrington had not complied with the Court's order regarding the payment of child maintenance. I am aware that Ms. Coombs has also filed with this Court an application to vary child maintenance pursuant to section 37 of the *Maintenance and Custody Act* R.S.N.S. 1989, c. 160. If there are any arrears of child maintenance owing by Mr. Harrington to Ms. Coombs I assume that issue will be addressed either by Maintenance Enforcement or alternatively by the Court when Ms. Coombs' variation application is decided.

J.