IN THE SUPREME COURT OF NOVA SCOTIA
FAMILY DIVISION
Citation: Gao v. Chen, 2005 NSSC 131

Date: 20050527
Docket: SFH MCA 017649
Registry: Halifax

Between:

Limin Gao

Applicant

v.

Qiyu Chen

Respondent

Restriction on publication: **There is no restriction on publication.**

Judge: The Honourable Justice Beryl MacDonald

Heard: April 25, 2005 and May 3, 2005, in Halifax, Nova Scotia

Written Decision: May 27, 2005

Subject: An application pursuant to Sec. 13 of the Matrimonial Property Act for an unequal division of matrimonial assets and division of non-matrimonial assets.

Summary: The parties had first married in 1983 and a son was born of their relationship in 1985. The parties divorced in 1990 but remarried in 1997. The parties separated in February 2002. Significant matrimonial assets were used exclusively by the husband leaving few remaining matrimonial assets to be divided at the time of trial. Some matrimonial assets were invested by the husband in corporations having third party investors. During the marriage the wife had the primary responsibility to obtain financial support for herself and the parties son particularly during the two years prior to the parties separation and continuing after their separation.

Issue: What were the assets remaining to be divided between the parties and how should these be classified and then valued. Should there be an unequal division of matrimonial assets and a division of non-matrimonial assets.

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Result: Bank accounts both in Canada and the United States, RRSP's, furniture and household items, a vehicle and an investment portfolio in US companies were classified as matrimonial assets. Post separation investments made by the husband, although some were made with the use of matrimonial assets, were classified as either business assets or assets acquired after separation. An equal division of matrimonial assets was found to be unfair and inequitable. An unequal division of matrimonial assets and a division of non-matrimonial assets was ordered.