



Civil Resolution Tribunal

Date Issued: December 4, 2018

File: SC-2018-001955

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Singh v. Arti Sood Notary Corporation*, 2018 BCCRT 803

B E T W E E N :

Shailven Singh

APPLICANT

A N D :

Arti Sood Notary Corporation

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. The applicant, Shailven Singh, hired the respondent notary, Arti Sood Notary Corporation, to add the applicant's wife to the title of property. The applicant says the respondent failed to advise that there was a \$4,220 property transfer tax (transfer tax). The applicant claims \$4,378.34 as reimbursement of the transfer tax and \$33.34 for a corporate title search.
2. The applicant is self-represented. The respondent is represented by Arti Sood, its principal.

JURISDICTION AND PROCEDURE

3. These are the formal written reasons of the Civil Resolution Tribunal (tribunal). The tribunal has jurisdiction over small claims brought under section 3.1 of the *Civil Resolution Tribunal Act* (Act). The tribunal's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the tribunal must apply principles of law and fairness, and recognize any relationships between parties to a dispute that will likely continue after the dispute resolution process has ended.
4. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. In the circumstances here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the tribunal's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary. I also note that in *Yas v. Pope*, 2018 BCSC 282 at paragraphs 32 to 38, the BC Supreme Court recognized the tribunal's process and found that oral hearings are not necessarily required where credibility is in issue.
5. The tribunal may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a

court of law. The tribunal may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.

6. Under tribunal rule 126, in resolving this dispute the tribunal may order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the tribunal considers appropriate.

ISSUES

7. The issue in this dispute is whether the respondent failed to advise the applicant of the transfer tax, and if so, what is the appropriate remedy.

EVIDENCE AND ANALYSIS

8. In a civil claim such as this, the applicant bears the burden of proof on a balance of probabilities. I have only addressed it below as necessary to explain my decision.
9. It is undisputed that the applicant hired the respondent to add the applicant's wife to the title of property. The applicant says the respondent told him that she had entered the appropriate exemptions to avoid any "penalty" for the transaction, but the respondent was incorrect. I infer this refers to the transfer tax that was applied to the transaction. Ms. Sood says she understood the property was not bare land, and as such an exemption would have applied. It is undisputed that a bare land property attracts the transfer tax and there is no applicable exemption. It is also undisputed that the applicable transfer tax was \$4,220.
10. Ms. Sood says she fully explained to the applicant the consequences of the transaction. The respondent says she is an expert in her field and she is "100% aware" that bare land is not exempt from the transfer tax.
11. In contrast, in his reply submission the applicant says the respondent was "fully aware" the property was bare land with no structure on it. The applicant says at no point was he told he would have to pay the transfer tax. The applicant says that given the amount of the transfer tax, he would not have proceeded with the

transaction as he had other means to finance the construction mortgage that was the reason for adding his wife to title.

12. A central issue in this dispute is whether the applicant told the respondent that the property in question was a bare land property. The applicant says he did. The respondent says the applicant and his wife indicated it was a principal residence, consisting of “land with improvements”, rather than “vacant land”. The respondent provided a copy of the “property transfer tax return” signed by the applicant and his wife, which clearly indicates the property is “land with improvements”. I accept that this indicated the property was not a bare land property. The applicant has not provided a reasonable explanation for why he signed the form that indicated the property was “land with improvements”.
13. On balance, I find the applicant has not proved he told the respondent that the property was bare land and that she made the “land with improvements” error on the property transfer tax form that he signed.
14. The other central issue in this dispute is whether the applicant reasonably relied on the respondent notary to provide the relevant tax advice. The respondent provided a blank copy of her “Family Transfer Questionnaire”, which is a one-page document. The respondent says she prints it for every client, which clearly says the client may be responsible for the transfer tax and that speaking to a tax accountant about tax implications is advised. The applicant did not expressly address the questionnaire in his detailed reply submission. On balance, I find the respondent gave the applicant the questionnaire as part of her routine practice.
15. I find the applicant did not reasonably rely on the respondent to give advice about the application of the transfer tax, given the express advice on the questionnaire to get proper advice from a tax accountant. I therefore find that any error by the respondent about the tax applicable to a bare land property did not cause the applicant’s damage, because it was unreasonable for the applicant to have relied on the respondent for tax advice.

16. As the applicant was unsuccessful in his claims, in accordance with the Act and the tribunal's rules I find the applicant is not entitled to reimbursement of \$175 in tribunal fees.

ORDER

17. I order the applicant's claims and this dispute are dismissed.

Shelley Lopez, Vice Chair