

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Gong v. Zhang*,
2023 BCCA 424

Date: 20231020
Docket: CA48722

Between:

Quan Gong

Appellant
(Petitioner)

And

Yu Yi Zhang

Respondent
(Respondent)

Before: The Honourable Madam Justice Bennett
The Honourable Mr. Justice Willcock
The Honourable Mr. Justice Butler

On appeal from: An order of the Supreme Court of British Columbia, dated
November 3, 2022 (*Gong v. Zhang*, Vancouver Docket S218954).

Oral Reasons for Judgment

The Appellant, appearing in person: Q. Gong

Counsel for the Respondent: T. Guo

Counsel for the Director of the Residential
Tenancy Branch (via videoconference): J.M. Patrick

Place and Date of Hearing: Vancouver, British Columbia
October 20, 2023

Place and Date of Judgment: Vancouver, British Columbia
October 20, 2023

Summary:

This is an appeal from the dismissal of the appellant's petition for judicial review of decisions of the Residential Tenancy Branch (RTB) concerning her eviction from rental premises. In unfocused and scandalous submissions, the appellant is critical of, among other parties, the RTB and the chambers judge. On appeal, the respondent seeks an order for special costs on the grounds that the appellant's conduct in this Court is deserving of rebuke. Held: Appeal dismissed. The appellant fails to describe a proper ground for appellate intervention. The chambers judge properly dismissed her petition for judicial review as moot. In the Court's view, the appellant's conduct is deserving of rebuke, and special costs are ordered accordingly.

[1] **WILLCOCK J.A.:** This is an appeal from the November 3, 2022, judgment of Justice Warren, dismissing the appellant's petition for judicial review of decisions of the Residential Tenancy Branch concerning her eviction from rental premises.

[2] Justice Warren described the history of proceedings in her reasons for judgment:

[2] The proceedings before the RTB involved an initial application for dispute resolution, requests to amend the application, applications for correction or clarification, and an application for review consideration. There were two hearings, one on August 24, 2021 and one on September 24, 2021.

[3] There are five RTB decisions: an interim decision by Arbitrator O'Neill dated August 24, 2021; a decision by Arbitrator O'Neill on a request for clarification or correction dated August 31, 2021; the substantive decision by Arbitrator O'Neill on October 1, 2021; an amended decision by Arbitrator O'Neill on a request for correction dated October 1, 2021; and a review consideration decision by Arbitrator Wilson dated October 14, 2021.

[3] At the outset of her reasons, Justice Warren noted:

[4] ... the petitioner does not speak English well. I did not understand everything she said during the hearing. It appeared that she did understand most, if not all, of what I said. I raised my ability to understand what the petitioner was saying as a concern and gave her the option of adjourning the hearing on the condition that, if it was reset, she would bring a lawyer or court-certified interpreter with her to assist. I told her if she did not want to do that, we could persevere, but that I was not confident I would understand all of her oral submissions. She chose to proceed on that basis.

[4] After noting that the dispute before the Residential Tenancy Branch arose out of a one-month notice to end tenancy issued by the landlord on April 11, 2021, and

the substantive decision dismissing the application to set aside that notice on October 1, 2021, the chambers judge said as follows:

[24] ... The October 1st decision dismissed the tenant's application and ordered her to deliver up vacant possession of the rental unit within two days of being served. On October 7, 2021, the landlord served an order for possession. The landlord filed a writ of possession on or about October 25, 2021, and a bailiff enforced the writ of possession on October 28, 2021. The tenant was removed and she has not resided in the unit since then.

[5] She held:

[32] ... the application for judicial review is moot. The petitioner is no longer residing in the premises. If she was successful on this petition, the RTB decision or decisions and any accompanying order(s) would be set aside. However, there is no longer a tenancy in place. No other relief is sought. Accordingly, the petition serves no practical purpose.

[6] In order, perhaps, to assure the petitioner she had been heard, the chambers judge went on at some length to set out why, in any event, she would have dismissed the petition on the merits.

[7] In a factum that is unfocused, confusing, and at times irrational and scandalous, the appellant is critical of the respondent, the chambers judge, and the court registry. She does not address the mootness point, except in a paragraph of her argument that does so as follows:

111. With much-fricated information copied from the RTB, following by the hands behind this case, with the vacuumed topic with vacuum submission for the appellant, Mrs. Warren believed the Ju dial judicial review was the mood, no practical, no merit, and the appellant left for a year is lose interest in justice. This case concerns the RTB workers maintaining illegal rental units for the real estate market and working with judicial workers running an eviction business by a timeline, by documents by law they can design for the appellant to turn a life damages case, a criminal case of Aron, and to eviction with costs to continue endless robbery. Pursuing the truth, factors, and compensation under the damages. Dismissing all evidence and changing the legal procedure of illegal eviction changes the nature of the personal injury, and arson is

[8] It is not possible to respond to this argument. It does not come close to describing a proper ground for appellate intervention. We are all agreed the petition was properly dismissed as moot, and the appeal should be dismissed.

[9] Insofar as costs are concerned, the respondent, Yu Yi Zhang, seeks an order for special costs on the grounds that the appellant's conduct in this Court is deserving of rebuke. In particular, the respondent points to the conduct of the appellant in making baseless and speculative claims of misconduct and conspiracy on the part of the respondents, the Court and court staff.

[10] At the outset of the hearing of the appeal this afternoon, the appellant sought an adjournment, despite the fact that on September 12, 2023, the Registrar of the Court set the date for the hearing of this appeal, and notified the appellant that the date for the appeal had been fixed and that it was important for her to attend Court on the set dates, as orders might be made in her absence should she fail to do so. The Registrar indicated to the appellant that it was the Court's intention to hear this appeal on this date and that all the necessary material had been filed. Despite these facts she, again, sought an adjournment at the outset of the hearing of the appeal today.

[11] I note, also, that the appellant has continued to make scandalous allegations against the Court and court registry staff. In particular, she has alleged during the course of her submissions this afternoon that staff has engaged in perjury.

[12] We are of the view that the appellant's conduct is deserving of rebuke, and that an order for special costs should be made.

[13] **THE COURT:** The appeal is dismissed and special costs are ordered.

"The Honourable Madam Justice Bennett"

"The Honourable Mr. Justice Willcock"

"The Honourable Mr. Justice Butler"