COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Sayyari v. Provincial Health Services Authority,* 2023 BCCA 413

Date: 20231115
Docket: CA48750

Between:

Sarah Sayyari

Appellant
(Respondent)

And

Provincial Health Services Authority and Paul Lythgo

Respondents
(Petitioners)

Corrected Judgment: The citation of the judgment was corrected on December 11, 2023 and paragraph 28 was corrected on January 5, 2024.

Before: The Honourable Madam Justice MacKenzie
The Honourable Justice Dickson
The Honourable Mr. Justice Fitch

On appeal from: An order of the Supreme Court of British Columbia, dated November 15, 2022 (*Provincial Health Services Authority v. Sayyari*, 2022 BCSC 2092, Vancouver Docket S217029).

Counsel for the Appellant:	L.W.O. Smeets
Counsel for the Respondents:	K.N. Orr
Place and Date of Hearing:	Vancouver, British Columbia October 11, 2023
Place and Date of Judgment:	Vancouver, British Columbia November 15, 2023

Written Reasons by:
The Honourable Mr. Justice Fitch

Concurred in by:
The Honourable Madam Justice MacKenzie
The Honourable Justice Dickson

Summary:

This appeal arises from a petition brought by the respondent employer pursuant to s. 30(1) of the Human Rights Code, R.S.B.C. 1996, c. 210, to enforce an alleged settlement agreement. The chambers judge found that s. 30(1) conferred upon the Supreme Court jurisdiction to determine whether the parties entered into a settlement agreement. The appellant alleges that the judge erred in interpreting s. 30(1) of the Code as empowering the Supreme Court to determine the existence of a settlement agreement. He submits that this power rests exclusively with the Human Rights Tribunal. Held: Appeal dismissed. The Court's enforcement power is predicated on the existence of a valid settlement agreement, the terms of that agreement, and whether it has been breached. The Court's power to determine antecedent questions that must be resolved before making an enforcement order falls squarely within the statutory language in s. 30(1). Alternatively, the Court's authority to determine whether parties to a human rights complaint have entered into a settlement agreement arises by necessary implication, or stems from the Court's inherent jurisdiction.

Reasons for Judgment of the Honourable Mr. Justice Fitch:

I. The Issue on Appeal

[1] Section 30(1) of the *Human Rights Code*, R.S.B.C. 1996, c. 210 [*Code*] provides that if there has been a breach of the terms of a settlement agreement, a party to the agreement may apply to the Supreme Court to enforce it to the extent that the terms of the agreement could have been ordered by the British Columbia Human Rights Tribunal (the "Tribunal"). The issue on this appeal is whether, on an application made pursuant to s. 30(1), the Supreme Court has jurisdiction to determine whether the parties entered into a settlement agreement. The chambers judge concluded that such jurisdiction exists.

[2] The appellant submits that although the legislature conferred upon the Supreme Court the power to enforce a settlement agreement, the authority to determine whether the parties entered into a valid settlement agreement rests exclusively with the Tribunal.

[3] For the reasons that follow, I agree with the conclusion reached by the chambers judge. Consequently, I would dismiss the appeal.

II. Background

[4] As this appeal deals with a narrow point of statutory interpretation, I will set out the background in brief compass.

[5] The appellant was employed by the Provincial Health Services Authority ("the Health Authority") from January 22, 2018 until her termination on July 9, 2019. Paul Lythgo was her manager.

[6] On July 7, 2020, the appellant, who was then self-represented, filed a human rights complaint against the Health Authority and Mr. Lythgo (together, "the respondents"). She alleged employment discrimination on the basis of age.

[7] The Tribunal arranged an early settlement meeting ("the ESM") between the parties. Both the appellant and respondents were represented when the ESM took place. The appellant was represented by an articling student working under the supervision of a lawyer. The respondents were represented by an experienced employment lawyer.

[8] At the conclusion of the ESM, the mediator notified the Tribunal that a settlement had been reached and that he expected the appellant's complaint to be withdrawn.

[9] By March 12, 2021, the terms of the settlement agreement had been reduced to writing and sent to the appellant for her review.

[10] Among other things, the terms of the agreement required the Health Authority to pay the appellant the sum of $13,000 as general damages pursuant to s. 37(2)(d)(iii) of the *Code*. In addition, the Health Authority would enhance the anti-harassment component of its workplace policy. For her part, the appellant would withdraw the complaint and release the respondents from claims under the *Code* or at common law arising out of matters pertaining to her employment with the Health Authority.

[11] On March 19, 2021, the appellant wrote to the Tribunal seeking to amend her complaint to include the allegation that she was subjected to employment discrimination on the basis of mental disability.

[12] On March 25, 2021, counsel for the Health Authority was advised that the appellant was no longer represented.

[13] Later that day, counsel for the Health Authority advised the appellant of her position that a settlement agreement had been reached at the conclusion of the ESM, and asked the appellant to sign the agreement and withdraw her complaint.

[14] On March 27, 2021, the appellant advised counsel for the Health Authority that she would not sign the settlement agreement.

[15] On April 27, 2021, the appellant purported to withdraw from the settlement process.

[16] On July 12, 2021, the appellant commenced an action in the Supreme Court naming the Health Authority and Mr. Lythgo as defendants. As the chambers judge noted, some of the claims in that action appear to be within the exclusive jurisdiction of the Tribunal, while others appear to amount to a claim for wrongful dismissal.

[17] The appellant did not serve the defendants with the notice of civil claim and has not pursued the Supreme Court action.

[18] On July 28, 2021, the respondents filed a petition seeking, among other things, an order that the appellant sign the settlement agreement and withdraw her human rights complaint or, in the alternative, an order that the settlement agreement is binding on the appellant.

[19] On September 28, 2021, the Tribunal accepted for filing the appellant's amended complaint. The Tribunal was not asked to opine on whether the parties had entered into a settlement agreement.

III. Legislative Context

[20] The parties have identified the following legislative provisions as potentially relevant to the narrow interpretative issue raised on appeal:

> ***Human Rights Code*, R.S.B.C. 1996, c. 210**
>
> **Purposes**
>
> 3 The purposes of this Code are as follows:
>
> > (a) to foster a society in British Columbia in which there are no impediments to full and free participation in the economic, social, political and cultural life of British Columbia;
> >
> > (b) to promote a climate of understanding and mutual respect where all are equal in dignity and rights;
> >
> > (c) to prevent discrimination prohibited by this Code;
> >
> > (d) to identify and eliminate persistent patterns of inequality associated with discrimination prohibited by this Code;
> >
> > (e) to provide a means of redress for those persons who are discriminated against contrary to this Code.
>
> …
>
> **Discrimination in employment**
>
> 13 (1) A person must not
>
> > (a) refuse to employ or refuse to continue to employ a person, or
> >
> > (b) discriminate against a person regarding employment or any term or condition of employment
>
> because of the Indigenous identity, race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, gender identity or expression, or age of that person or because that person has been convicted of a criminal or summary conviction offence that is unrelated to the employment or to the intended employment of that person.
>
> …
>
> **Dismissal of a complaint**
>
> 27 (1) A member or panel may, at any time after a complaint is filed and with or without a hearing, dismiss all or part of the complaint if that member or panel determines that any of the following apply:
>
> …
>
> > (d) proceeding with the complaint or that part of the complaint would not
> >
> > …
> >
> > > (ii) further the purposes of this Code;

…

Enforcement of settlement agreements

30 (1) If there has been a breach of the terms of a settlement agreement, a party to the settlement agreement may apply to the Supreme Court to enforce the settlement agreement to the extent that the terms of the settlement agreement could have been ordered by the tribunal.

…

Application of *Administrative Tribunals Act* to tribunal

32 The following provisions of the *Administrative Tribunals Act* apply to the tribunal:

…

(d) section 17 [*withdrawal or settlement of application*];

…

Remedies

37 (2) If the member or panel determines that the complaint is justified, the member or panel

(a) must order the person that contravened this Code to cease the contravention and to refrain from committing the same or a similar contravention,

(b) may make a declaratory order that the conduct complained of, or similar conduct, is discrimination contrary to this Code

(c) may order the person that contravened this Code to do one or both of the following:

(i) take steps, specified in the order, to ameliorate the effects of the discriminatory practice;

(ii) adopt and implement an employment equity program or other special program to ameliorate the conditions of disadvantaged individuals or groups if the evidence at the hearing indicates the person has engaged in a pattern or practice that contravenes this Code, and

(d) if the person discriminated against is a party to the complaint, or is an identifiable member of a group or class on behalf of which a complaint is filed, may order the person that contravened this Code to do one or more of the following:

(i) make available to the person discriminated against the right, opportunity or privilege that, in the opinion of the member or panel, the person was denied contrary to this Code;

(ii) compensate the person discriminated against for all, or a part the member or panel determines, of any wages or salary lost, or expenses incurred, by the contravention;

(iii) pay to the person discriminated against an amount that the member or panel considers appropriate to compensate that

> person for injury to dignity, feelings and self respect or to any of them.
>
> …
>
> **Enforcement of remedies**
>
> 39 (1) If an order is made under section 37 (2) (a), (c) or (d) or (4) or 38 (2), the party in whose favour the order is made or a person designated in the order may file a certified copy of the order with the Supreme Court.
>
> (2) An order filed under subsection (1) has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of the Supreme Court.
>
> …
>
> ***Administrative Tribunals Act*, S.B.C. 2004, c. 45**
>
> **Withdrawal or settlement of application**
>
> 17 (1) If an applicant withdraws all or part of an application or the parties advise the tribunal that they have reached a settlement of all or part of an application, the tribunal must order that the application or the part of it is dismissed.
>
> (2) If the parties reach a settlement in respect of all or part of the subject matter of an application, on the request of the parties, the tribunal may make an order that includes the terms of settlement if it is satisfied that the order is consistent with the enactments governing the application.
>
> …

IV. Reasons for Judgment

[21] In oral reasons for judgment indexed as 2022 BCSC 2092, the chambers judge framed the appellant's submission, rejected it, and explained why the Court has jurisdiction under s. 30(1) to determine whether the parties entered into a settlement agreement:

> [27] Ms. Sayyari argues that, while the Court has the authority under s. 30 to enforce a settlement agreement, it does not have the jurisdiction to determine whether a valid and binding settlement agreement exists. A dispute as to whether the parties entered into a settlement agreement, Ms. Sayyari argues, is a matter that should be decided in the first instance by the Tribunal, and a party who alleges a settlement agreement should be required to follow the processes under the *Code* before it applies to the Court under s. 30 to enforce the alleged agreement.
>
> …
>
> [30] Ms. Sayyari cites the decision of the *Supreme Court of Canada in Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, for the proposition summarized in the headnote that:

> Where a legislature has created an administrative decision maker for the specific purpose of administering a statutory scheme, it must be presumed that the legislature also intended that decision maker to fulfill its mandate and interpret the law applicable to all issues that come before it. Where a legislature has not explicitly provided that a court is to have a more involved role in reviewing the decisions of that decision maker, it can safely be assumed that the legislature intended a minimum of judicial interference.

[31] Ms. Sayyari gives three reasons why this Court should not determine whether a settlement agreement exists:

> a) deference to the expertise of the Tribunal;
>
> b) respect for the confidentiality of the Tribunal's processes; and
>
> c) the expense of proceeding in B.C. Supreme Court, particularly for complainants like Ms. Sayyari who lack the resources of the Petitioners.

[32] These are worthy arguments, but they are all answered, in my view, by the legislative scheme. The fact of the matter is that the legislature has provided the Court with a role by providing a remedy in the event of a breach of the terms of a settlement agreement. Implicit in this role is the authority to decide, in cases where the parties disagree whether they entered into a settlement, whether the parties made an agreement, interpret the agreement, determine whether it was breached, and decide whether it should be enforced.

[33] These are issues that are decided on the ordinary principles of contract law and settlement of legal disputes, which are not matters within the specialized expertise of the Tribunal. The fact that the Tribunal has a statutory jurisdiction under s. 27(1)(d)(ii) to determine whether a settlement agreement exists, and to refuse to hear a complaint if it does, cannot deprive the Court of its own jurisdiction under s. 30 of the *Code*.

[34] The Tribunal's jurisdiction under s. 27(1)(d)(ii) is limited to dismissal of a complaint. Section 27(1)(d)(ii) is of no assistance to a party seeking to enforce any other provision of a settlement agreement, including, in this case, a general release of claims. Section 27(1)(d)(ii) is also of no use to a claimant who may seek, for example, to enforce an agreement to pay compensation or costs to settle a complaint.

[35] There may be other provisions of the *Code* which allow the Tribunal to consider the existence of a settlement agreement, for example under s. 22(3)(a), which allows the Tribunal to consider whether it is in the public interest to accept a complaint filed out of time.

[36] However, the Tribunal does not have any freestanding or inherent jurisdiction to decide whether a settlement exists or to declare that the parties entered into a settlement agreement. While the Tribunal has the authority to control its own process, it does not have any substantive jurisdiction that is not provided by its originating statute.

[37] The Tribunal's authority under s. 17(2) of the *ATA* to make what amounts to a consent order is dependent on the agreement and joint request

> of the parties. Section 17(2) does not authorize the Tribunal to impose a consent order on the parties or impose any settlement terms on the parties. That power resides in the B.C. Supreme Court under s. 30 of the *Code*: *Nguyen* at para. 19.
>
> [38] I am sympathetic to Ms. Sayyari's concerns about cost and access to justice. However, the legislature has not provided any mechanism for the Tribunal to enforce a settlement agreement, except dismissal of a complaint under s. 27.
>
> [39] Confidentiality is a valid concern, but this Court deals with many private and sensitive matters, and mechanisms exist under the Court's rules and procedures to protect the privacy and dignity of litigants. Moreover, decisions of the Tribunal are available on their website and complaint files are subject to freedom of information requests, so privacy at the Tribunal is also necessarily limited.
>
> [40] In a case where dismissal of a complaint is an option to a party in a human rights complaint, but not a complete remedy for a breach of the terms of the alleged settlement agreement, there is no valid reason, in my view, to require that party to first apply to the Tribunal to dismiss the complaint, and then to the Court to enforce the other terms of the settlement agreement that the Tribunal cannot enforce on its own.
>
> [41] Having said all of this, I agree with Ms. Sayyari that the Court should exercise its authority under s. 30 with restraint. Consistent with the principle of restraint, the Court should not intervene unless and until there is a breach of the terms of the settlement agreement, and it should not make orders that are not reasonably required to remedy the breach or prevent further breaches.
>
> [Emphasis added.]

[22] Having concluded that the Supreme Court has jurisdiction under s. 30(1) of the *Code* to determine whether parties to a human rights complaint have entered into a settlement agreement, the judge turned to the circumstances of this case. He found that a reasonable bystander informed of the material facts would conclude that the parties agreed on the essential terms of the settlement and that all that was left was to reduce those agreed upon terms to writing: para. 60. He therefore concluded that the parties had entered into a settlement agreement. He declined, however, to determine in the context of a petition proceeding whether enforcement of the settlement agreement would be unjust, unreasonable or unfair: para. 77. Accordingly, he referred the petition to the trial list: para. 78.

[23] I take the following propositions from the chambers judge's reasons:

- The legislature has not empowered the Tribunal under the provisions of the *Code* with "freestanding jurisdiction" to decide whether the parties to a complaint falling under the Tribunal's jurisdiction have entered into a settlement agreement: para. 36;

- Unlike the Court, the Tribunal has no inherent jurisdiction and no substantive jurisdiction not provided by its originating statute: para. 36;

- The Tribunal may, nevertheless, be required to determine whether a settlement agreement exists in circumstances where such a determination is necessarily bound up with the exercise of a decision-making authority that has been statutorily delegated to it under the *Code*. The most obvious example is when the Tribunal is called upon to dismiss all or part of a complaint pursuant to s. 27(1)(d)(ii) because it would not further the purposes of the *Code*. The chambers judge held that it would not further the purposes of the *Code* to allow a complaint to proceed in the face of a subsisting settlement agreement: para. 28. This holding is consistent with the Tribunal's interpretation of its own authority: see *Thompson v. Providence Health Care*, 2003 BCHRT 58 at paras. 39, 45–46; *Nguyen v. Prince Rupert School District No. 52*, 2004 BCHRT 20 at paras. 17–18; *Wadehra v. ABM Janitorial Services and another*, 2004 BCHRT 356 at paras. 14–16, 25; *Lim v. Craig's Boyz Trucking and another*, 2014 BCHRT 133 at paras. 33–36; *Siebring v. Strata Plan NW 2275 and another,* 2018 BCHRT 267 at para. 18. It is also consistent with the doctrine of jurisdiction by necessary implication, a principle of statutory interpretation through which powers conferred by an enabling statute on an administrative tribunal or statutory court are construed to include not only those expressly granted but also, by implication, all powers which are practically necessary for the accomplishment of the object intended to be secured by the statutory regime created by the legislature: Ruth Sullivan, *The Construction of Statutes*, 7th ed. (Toronto: LexisNexis Canada, 2022) at 12.02; *ATCO Gas and Pipelines Ltd. v. Alberta (Energy and Utilities Board)*, 2006 SCC 4 at para. 51; *R. v. Cunningham*, 2010 SCC 10 at paras. 18–20. Although not referred to by the judge or the parties, the principle appears to find statutory expression in s. 27(2) of the *Interpretation Act*, R.S.B.C 1996, c. 238;

- The legislature has assigned to the Court the power to enforce a settlement agreement if there has been a breach of that agreement: s. 30(1) of the *Code*;

- The Tribunal is not empowered by its enabling legislation to enforce settlement agreements: paras. 24, 26;

- The power of the Supreme Court to enforce a settlement agreement on an application pursuant to s. 30(1) of the *Code* includes the authority to determine whether a settlement agreement exists and, if so, to interpret the agreement, determine whether it was breached, and decide whether it should be enforced. I understand the judge to have concluded that these related powers are incidental to those expressly conferred and exist by necessary implication from the words of the Act, its structure, and its purpose: para. 32;

- The fact that the Tribunal may be called on in the exercise of its statutory jurisdiction to determine whether the parties entered into a settlement agreement cannot deprive the Court of its own jurisdiction under s. 30: para. 33;

- In any event, the Tribunal's jurisdiction under s. 27(1)(d)(ii) is limited to dismissal of the complaint. The provision is of no assistance to a party seeking to enforce a particular provision of a settlement agreement including, as in this case, when a party seeks to enforce a general release provision: para. 34; and

- Even though principles of contract law are not matters falling within the specialized expertise of the Tribunal, the Court should exercise its authority under s. 30 with some restraint: para. 41.

V. Positions of the Parties

[24] An issue of statutory interpretation raises a question of law*: Canadian National Railway Co. v. Canada (Attorney General)*, 2014 SCC 40 at para. 33. The parties therefore agree that the standard of review applicable to this appeal is correctness: *Housen v. Nikolaisen,* 2002 SCC 33 at para. 8.

[25] The appellant advocates for a narrow interpretation of s. 30 of the *Code*, suggesting, as I understand it, that the Supreme Court's enforcement jurisdiction is only triggered when the existence and terms of a settlement agreement have been determined by the Tribunal. She relies on the maxim of implied exclusion to argue that if the legislature had intended to confer upon the Court jurisdiction to determine whether the parties to a human rights complaint had entered into a settlement

agreement, it would have expressly said so. She relies on *Canada (Minister of Citizenship and Immigration) v. Vavilov,* 2019 SCC 65, including for the proposition that where the legislature has not explicitly prescribed that a court is to have a role in reviewing the decisions of an administrative decision maker, it can safely be assumed that the legislature intended the administrative decision maker to function with a minimum of judicial interference: para. 24. She submits that the *Code* is intended to vest in the Tribunal holistic jurisdiction to provide appropriate and complete redress for discrimination "without resort to external entities", save for the enforcement of orders made by the Tribunal following the determination of a human rights complaint. She submits that s. 39 of the *Code* and s. 17(2) of the *Administrative Tribunals Act* [*ATA*] both suggest that the legislature intended the Tribunal to have an oversight role with respect to settlement agreements, including the exclusive jurisdiction to determine whether a valid settlement agreement has been reached.

[26] The respondents endorse the reasoning of the chambers judge. In addition, the respondents submit that the Supreme Court has inherent jurisdiction to determine the existence and terms of a settlement agreement incidental to its power to enforce that agreement.

VI. Analysis

[27] The basic rule of statutory interpretation is that "the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament": *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 S.C.R. 27 at para. 21.

[28] The usual first step in interpreting a statute is to examine the text of the provision to determine its plain or ordinary meaning. Ultimately, however, the true meaning of the words being interpreted can only be determined contextually by considering other indicators of legislative meaning—context, purpose, and relevant legal norms: *La Presse inc. v. Quebec*, 2023 SCC 22 at para. 23; *R. v. Alex*, 2017 SCC 37 at para. 31. Put differently, a court engaged in an exercise of statutory

interpretation must not construe a provision in isolation. Instead, individual provisions must be considered in light of the Act as a whole, with each provision informing the meaning to be given to the rest. As the Supreme Court of Canada explained in *British Columbia Human Rights Tribunal v. Schrenk*, 2017 SCC 62 at para. 45, the rule ensures that the statutes are read as coherent legislative pronouncements.

[29] I begin with the text of the provision. In my view, the meaning of s. 30(1) is clear on its face. The Court has the power to enforce a settlement agreement (to the extent that the terms could have been ordered by the Tribunal) if there has been a breach of the terms of the agreement. In other words, exercise of an enforcement power is conditional upon the existence of a valid settlement agreement which has been shown to have been breached. It follows that exercise of an enforcement power is also conditional upon determination by the Supreme Court of the terms of the agreement and confirmation that those terms could have been ordered by the Tribunal.

[30] I do not consider that it is necessary to call on the doctrine of jurisdiction by necessary implication to come to this conclusion. In my view, the wording of the provision, construed contextually, expressly grants authority to the Supreme Court to make an enforcement order with respect to a settlement agreement that has been breached. What this authority necessarily entails is the power to determine antecedent questions that must be resolved before an enforcement order is made, including whether a valid settlement agreement exists, the terms of that agreement and whether it has been breached.

[31] If I am wrong that the language of the provision expressly confers on the Supreme Court these associated powers bound up with the making of an enforcement order, I would conclude (as the chambers judge did) that the authority to determine whether the parties entered into a settlement agreement arises by necessary implication from the authority expressly conferred on the Court. Put simply, the power to determine whether a valid settlement agreement exists is one

that is practically necessary for the accomplishment of the object intended to be secured by the statutory regime as reflected in s. 30(1).

[32] While the doctrine of jurisdiction by necessary implication is most commonly invoked with respect to administrative tribunals and statutory courts, it is also an interpretive tool that may be called upon to assist in determining the authority conferred on a superior court by a legislative provision: see, for example, *Business Development Bank of Canada v. Astoria Organic Matters Ltd.*, 2019 ONCA 269 at paras. 46–51. By expressly empowering a Supreme Court judge to enforce the terms of a settlement agreement reached in relation to a human rights complaint, the legislature must be taken to have clothed the Court with the power to resolve disputes necessarily bound up with the making of an enforcement order. That the Supreme Court has the authority to resolve such disputes—including whether the parties entered into a settlement agreement—is practically necessary for the accomplishment of the objectives of the legislation and may be considered to be granted by implication.

[33] In my view it is not necessary to resort to inherent jurisdiction to conclude that the Supreme Court has the power to decide whether parties to a human rights complaint entered into a settlement agreement. As the Supreme Court of Canada has made clear, courts should first look to statutory authority, and exhaust their interpretive function before resorting to inherent jurisdiction: *Endean v. British Columbia*, 2016 SCC 42 at paras. 22–24. But even if it were appropriate to do so, I would conclude that a Supreme Court judge considering an enforcement application under s. 30(1) of the *Code* has inherent jurisdiction to determine whether the parties entered into a settlement agreement.

[34] Whether it is correct to say the authority to determine that parties to a human rights complaint have entered into a settlement agreement is expressly conferred by the language used in s. 30(1), arises by necessary implication, or stems from invocation of the Court’s inherent jurisdiction, the result is the same.

[35] There is nothing in the broader legislative scheme (or in s. 17 of the *ATA*) to suggest that the narrow interpretation advocated by the appellant should be adopted. More particularly, I find no merit in the appellant's arguments that the position she advances is supported by s. 39 of the *Code* or s. 17(2) of the *ATA*.

[36] I find unhelpful the appellant's reliance on *Insurance Corp. of B.C. v. Heerspink*, [1982] 2 S.C.R. 145 and, in particular, the observation of Lamer J. (as he then was) in his concurring reasons (at 158) that in the absence of express and unequivocal statutory language to the contrary, it is intended that the *Code* supersede all other laws when conflict arises. Unlike *Heerspink*, no conflict arises in this case between the provisions of the *Code* and another statute.

[37] I reject the appellant's argument that the principles expressed in *Vavilov* aid in the interpretive exercise that must be undertaken on this appeal. The principle upon which the appellant relies is that courts must respect the legislature's choice to delegate certain matters to non-judicial decision makers through statute: *Vavilov* at paras. 24, 26. That principle explains the presumption that reasonableness is the applicable standard on a judicial review application, but that is not the issue that arises here. More to the point, the principle has no application where the legislature has expressly chosen to empower the Supreme Court (not the Tribunal) to enforce settlement agreements entered into in the human rights context.

[38] Finally, the appellant offers no compelling reason why we should conclude that it is implicit in the grant of statutory authority to the Tribunal that it is empowered to decide whether a valid settlement agreement has been reached to discharge its statutory mandate, but decline to apply the same reasoning to the Supreme Court.

[39] It is uncontroversial that the purpose of s. 30(1) is to empower the Supreme Court with jurisdiction to enforce the terms of the settlement agreement reached in relation to a human rights complaint in circumstances where there has been a breach of one or more of its terms. The appellant concedes that the Tribunal does not have this authority.

[40] Accepting, as the chambers judge did, that the Tribunal is empowered, at least in the context of determining whether to dismiss a complaint under s. 27(1)(d)(ii), to decide whether the parties entered into a settlement agreement, this implicit authority will not always require the Tribunal to identify the terms of the agreement. Had it been asked to do so in this case, the Tribunal could have decided to dismiss the complaint on the basis that the parties had entered into a settlement agreement. That disposition would not have resolved disputes as to the terms of the agreement, including, most importantly for present purposes, whether the appellant agreed to release the respondents from all other claims under the *Code* or at common law for complaints arising out of her employment by the Health Authority. Adopting the appellant's narrow interpretation of s. 30(1) gives rise to the spectre that the Court could not make an enforcement order with respect to contested settlement terms. It could not have been the intention of the legislature to preclude the Court from resolving such disputes, thereby leaving no forum in which they could be adjudicated.

VII. Conclusion

[41] For the foregoing reasons, I would dismiss the appeal.

"The Honourable Mr. Justice Fitch"

I agree:

"The Honourable Madam Justice MacKenzie"

I agree:

"The Honourable Justice Dickson"