

SUPERIOR COURT OF JUSTICE – ONTARIO

RE: Nancy Hummel, Applicant
AND: Rainer Hummel, Respondent
BEFORE: Mr Justice Ramsay
COUNSEL: Donna Wowk and Vincent Demarco for the Applicant; James Singer and Jennifer Long for the Respondent
HEARD: December 14 and 18, 2018 at St Catharines

ENDORSEMENT

- [1] The Respondent moves for exclusive possession of the matrimonial home so that he can sell it. He asks the court to order that the Applicant give him vacant possession 120 days after she receives from him a \$600,000 advance on equalization, with the further provision that temporary spousal support be increased by \$1,500 a month at that point. This would be in addition to the \$800,000 that he has already advanced on equalization and the money he has been ordered to pay her to enable her to pursue the litigation.
- [2] The property contains a large house, which may or may not have been intended for development, and two relatively small coach houses. The Applicant lives in one of the coach houses. It is one piece of property owned by the Respondent and if he is to sell it for a decent price he has to sell it all and it has to be vacant.
- [3] The Applicant resists on the ground that it would not be in the children's best interest to force them from their home, particularly when one of them is traumatized by the conflict between the parents. Furthermore, the Applicant does not know how she could obtain suitable replacement accommodations.
- [4] The parties separated four years ago. I do not accept the Applicant's contention that the delay has been caused by the Respondent's resistance toward fulfilling his disclosure obligations. Nor do I accept that it is in the children's best interest to keep them where they are. Eliminating an unnecessary bone of contention would be in their best interest. It is inevitable that they will have to move anyway. The Respondent's net family property is not likely to be so much that the Applicant will be able to buy out his interest in this extraordinarily expensive property. She will have to move at some point. It is better for all concerned that the Respondent realize the value of the property. It will better enable him to pay support and equalization.

[5] With \$600,000 and at least \$8,800 a month in combined spousal and child support, the Applicant will have no trouble finding suitable accommodations roughly on a par with that to which she has been accustomed. **She is not accustomed to living in a six million dollar house. She is accustomed to living in a coach house on a big property.**

[6] For these reasons I endorsed that an order will go as asked.

J.A. Ramsay J.

Date: 2018-12-14