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Friday, August 7, 2015 - Issue 329

Issues added on the 7th and 21st of every month.

**** HIGHLIGHTS ****

- * A Justice of the Supreme Court of British Columbia has dismissed the unjust enrichment claim of one of three sons who took the position that he should have a one third share of the family farm based on farm work he did while growing up and his father's alleged promises that he would receive a share of the farm. The Court concluded that there was no basis in law to award a one third interest based on the bare promise that sometime in the future the father would transfer a one third interest to each son, and that any work done on the farm while growing up was part of family life and non-compensable. (Cory v. Cory, [CALN/2015-018](#), [\[2015\] B.C.J. No. 1543](#), British Columbia Supreme Court)

**** NEW CASE LAW ****

Cory v. Cory; [CALN/2015-018](#), Full text: [\[2015\] B.C.J. No. 1543](#); [2015 BCSC 1253](#), British Columbia Supreme Court, J.D. Truscott J., July 21, 2015.

Unjust Enrichment -- Farm Work Done While Growing Up -- Promises of Future Transfer of Farm Interests.

Clifford Hartnell Cory (the "Father") applied for a Court Order to strike, summary dismissal and dismissal pursuant to a summary trial, with respect to a claim advanced by his son, James Evan Cory ("James"). The Father's other sons, Clifford Charles Cory and John Allen Cory (the "Other Sons") were named as co-Defendants in the action.

The Father owned and operated a farm in Delta, B.C. He had three children, James and the Other Sons.

James claimed he worked on his Father's farm for many years while growing up and another 15 years after he reached adulthood.

He alleged he was doing planting, harvesting, fertilizing, irrigating, shop work and other farm activities. James alleged that his Father told him many times that he would receive a share of the family farm.

The Father transferred the farm to the Other Sons in 2014.

The Father stated that only one of his children worked on the farm after they reached adulthood -- John Allen Cory. He indicated that James did not work a significant amount on the farm, but that he was paid for any work he did. He said the majority interest in the farm was transferred to John Allen Cory in recognition for the work that he did on the farm.

The Father testified that in 2011, he transferred another property in Quesnel, B.C. to James.

The Father said he had no recollection of promising that his 3 sons would receive equal portions of the farm or the proceeds from the sale of the farm. He said he did not believe he was obligated to compensate James for the usual chores performed on the farm while growing up or for the insignificant amounts of work performed on the farm as an adult but that, in any event, James was compensated by payments to him, loans to him which were never repaid, being able to live rent free on another property for several years, and the gratuitous transfer of the Quesnel property.

James claimed unjust enrichment based on what he said were many years of working on his Father's farm and his Father's promise that he would get his share of the farm. He took the position that there was no juristic reason why he should not receive a one third interest in the farm, and that he worked all those years on the farm thinking he would get that share.

Decision: Truscott, J. dismissed James' claim under summary trial Rule 9-7 [at para. 46].

Truscott, J. relied [at para. 40] on the decision in *Antrobus v. Antrobus*, [2009 BCSC 1341](#) (CanLII) in which the trial judge stated:

It is part of family life that family members assist one another -- perhaps pitching in to help out younger siblings or aging parents, or helping with meal preparation and household chores. Children, teenagers, and young adults living with their parents are often expected to do their share in keeping the household running. Working together for the common good of the family, spending time to help other family members, without any expectation of monetary compensation, is generally part of the meaning "family". It is not the norm, and the law does not contemplate, that family members will do a forensic accounting during their lifetimes and make sure no one was disadvantaged in the overall exchange of services.

Truscott, J. then concluded, at para. 42 to 44 that there was no basis in law to award a one third interest to James based on the bare promise that sometime in the future the Father would transfer a one third interest to James, and that any work James did on the farm growing up was part of family life and non-compensable, stating:

[42] While there are conflicts in the evidence about whether the plaintiff did any substantial work on the farm and about whether father at one time

promised to give each of the sons a third of the value of the farm, there is no basis in law to award a third interest to the plaintiff based on a bare promise that sometime in the future father would transfer a third interest to each son.

[43] The only basis on which the plaintiff could succeed is in quantum meruit and I conclude that the gift of the Quesnel properties worth \$340,000 is more than enough compensation to the plaintiff for any claim of unjust enrichment. Any work he did on the farm growing up was part of the family life and non-compensable.

[44] I am satisfied on the evidence the two brothers of the plaintiff probably had a greater basis for the interests they received than did the plaintiff although it is not necessary for me to find the father had any legal obligation to compensate anyone of the sons as father had every right to gift interests in the farm to whomever he wanted.

**** CREDITS ****

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