

Citation: The Law Society of B.C. v.
A.G. Canada
2002 BCCA 49

Date: 20020118
Docket: CA029189/CA029190
Registry: Vancouver

COURT OF APPEAL FOR BRITISH COLUMBIA

ORAL REASONS FOR JUDGMENT

Before:

The Honourable Chief Justice Finch
The Honourable Mr. Justice Donald
The Honourable Mr. Justice Braidwood

January 18, 2002

Vancouver, B.C.

BETWEEN:

CA029190

THE LAW SOCIETY OF BRITISH COLUMBIA

PETITIONER
(RESPONDENT)

AND:

ATTORNEY GENERAL OF CANADA

RESPONDENT
(APPELLANT)

AND:

CANADIAN BAR ASSOCIATION

INTERVENOR

CA029189
BETWEEN:

FEDERATION OF LAW SOCIETIES OF CANADA

PETITIONER
(RESPONDENT)

AND:

ATTORNEY GENERAL OF CANADA

RESPONDENT
APPELLANT

AND:

CANADIAN BAR ASSOCIATION

INTERVENOR

H. Wruck, Q.C., R. Leong, P. Riley appearing for the Appellant

J. Giles, Q.C., C. Doulis appearing for the Petitioner, The
Law Society of B.C.

J. Wood, Q.C., R. Millen appearing for the Petitioner, Fed.
Of Law Societies of Canada

R.A. Skolrood, D.M. Bain appearing for the Intervenor,
Canadian Bar Association

[1]

FINCH, C.J.B.C.: The Attorney General of Canada appeals from orders pronounced on 20 November 2001 by Madam Justice Allan in Chambers granting the Petitioners The Law Society of British Columbia and the Federation of Law Societies of Canada interlocutory injunctions in identical terms as follows:

Legal counsel are exempt from the application of s. 5 of the **Proceeds of Crime (Money Laundering), Suspicious Transaction Reporting Regulations**, SOR/2001 - 317 pending the hearing of the petition filed herein.

[2] The learned judge filed thorough and extensive written reasons for judgment, some 42 pages in length, in support of the orders. Similar orders have since been pronounced by the superior courts in Alberta and Ontario. The Alberta judgment was pronounced on 6 December 2001 in the Alberta Court of Queen's Bench. The Ontario judgment was pronounced on 9 January 2002 by the Ontario Superior Court of Justice.

[3] Although the Alberta order grants somewhat different relief than that granted in Ontario and in the orders presently under appeal, both of the other courts adopted reasoning substantially similar to that of Madam Justice Allan.

[4] On the appeal to this Court the Attorney General of Canada says the learned Chambers judge erred in her application of the three part test for granting interlocutory injunctions, namely: whether the petitioners have raised a serious question to be tried; whether the petitioners demonstrated irreparable harm; and whether the petitioners established that the balance of convenience favoured the granting of interlocutory relief.

[5] In addition, the Attorney contends the learned Chambers judge erred in misapprehending the distinction between cases involving a general suspension of the impugned law and the exemption of a limited class of persons from that law. The Attorney also contends that neither petitioner has standing to bring these proceedings and that the issues raised cannot be decided without a proper record of both adjudicative and legislative facts.

[6] In addition to the careful analysis of the learned Chambers judge we have had the advantage of reading the written submissions of all parties, as well as of the Intervenor, The Canadian Bar Association. We have also had the benefit of counsel's oral submissions today.

[7] In an appeal of this nature the question for this Court is whether there has been an error of law or principle. To the extent that the orders appealed from involve an exercise of discretion, this Court cannot interfere only because it might have exercised the discretion in a different manner.

[8] Counsel for the Appellant has said everything that can be properly be said in support of the Attorney's position. In spite of those able submissions I have not been persuaded that the requisite test has been met. I have been unable to detect any error of law in the orders appealed from.

[9] I would dismiss the appeals for the reasons expressed by the learned Chambers judge which, in general, I endorse.

[10] DONALD, J.A.: I agree.

[11] BRAIDWOOD, J.A.: I agree.

[12] FINCH, C.J.B.C.: The appeals are dismissed.

"The Honourable Chief Justice Finch"

Correction: February 7, 2002

Please note that the Docket Nos. should be CA029189/Ca029190.

Correction: February 21, 2002

Please note at the bottom of page one on the Style of Cause CA029190 was typed again. It has now been removed.