

COURT OF APPEAL FOR ONTARIO

BEFORE) THURSDAY, THE 25th
)
THE HONOURABLE JUSTICE CRONK)
THE HONOURABLE JUSTICE BLAIR) DAY OF JANUARY, 2018
THE HONOURABLE JUSTICE van RENSBURG

B E T W E E N:

DBDC SPADINA LTD.,
and THOSE CORPORATIONS LISTED ON SCHEDULE A HERETO
Applicants (Appellants)

and

NORMA WALTON, RONAULD WALTON, THE ROSE & THISTLE GROUP LTD.
and EGLINTON CASTLE INC., and THOSE CORPORATIONS LISTED ON
SCHEDULE C HERETO
Respondents (Respondents)

and

THOSE CORPORATIONS LISTED ON SCHEDULE B HERETO AND THE REAL
PROPERTY LISTED ON SCHEDULE C HERETO, TO BE BOUND BY THE
RESULT

and

SUCH OTHER RESPONDENTS FROM TIME TO TIME AS ARE ON NOTICE OF
THESE PROCEEDINGS AND ARE NECESSARY TO EFFECT THE RELIEF
SOUGHT

AND BETWEEN

CHRISTINE DEJONG MEDICINE PROFESSIONAL CORPORATION
Applicant (Respondent)

and

NORMA WALTON, RONAULD WALTON, THE ROSE & THISTLE GROUP LTD.
and PRINCE EDWARD PROPERTIES LTD., ST. CLARENS HOLDINGS LTS.,
AND EMERSON DEVELOPMENTS LTD.
Respondents (Respondents)



ORDER

THIS APPEAL by the Applicants (Appellants), DBDC Spadina Ltd. and THOSE CORPORATIONS LISTED ON SCHEDULE A HERETO (collectively, the “Appellants”), from the Order of the Honourable Justice Newbould dated September 23, 2016, was heard June 2, 2017 at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

ON READING the Appeal Books and Compendium of the Appellants, the Joint Compendium of the Applicant (Respondent), Christine DeJong Medicine Professional Corporation (“CDJ”) and the Respondents, Dennis and Peggy Condos (the “Condos”) (collectively, the “Respondents”), the Consolidated Exhibit Books, the Factum and Brief of Authorities of the Appellants, the Facta of the Respondents, the Joint Compendium and Brief of Authorities of the Respondents and upon hearing the submissions of the counsel for the Appellants and the Respondents,

FOR WRITTEN REASONS delivered on January 25, 2018, this Court having reserved its decision;

1. **THIS COURT ORDERS** that the Appeal is granted and the following paragraphs of the Judgments and Orders of Justice Newbould dated September 23, 2016 are hereby set aside:

- (a) Paragraph 12 of the Order in respect of the Appellants’ Application (Court File No. CV-13-10280-00CL), holding that the corporations listed on Schedule C hereto (the “Schedule C Companies”) are not jointly and severally liable to the Appellants;

- (b) Paragraph 1 of the Order in respect of CDJ's Application (Court File No. CV-15-10879-00CL), granting constructive trusts in favour of CDJ over the properties known municipally as 3270 American Drive, Mississauga, Ontario; 324 Prince Edward Drive, Toronto, Ontario; 777 St. Clarens Avenue, Toronto, Ontario; and 260 Emerson Avenue, Toronto, Ontario; and
- (c) Paragraph 14 of the Order in respect of the Appellants' Application (Court File No. CV-13-10280-00CL) and Paragraph 4 of the Order in respect of CDJ's Application (Court File No. CV-15-10879-00CL), granting the Respondents their costs of their Application and Motion as against the Appellants.

2. **THIS COURT ORDERS AND DECLARES** that the Schedule C Companies are jointly and severally liable to the Appellants for damages payable in the amount of \$22,680,852, less any amounts recovered by the Appellants on account of the constructive trusts in favour of the Appellants ordered by Brown, J. (as he then was) at Paragraph 12 of his Judgment and Order dated August 12, 2014 in relation to the Schedule C Properties.

3. **THIS COURT ORDERS AND DECLARES** that the Respondent CDJ is not entitled to constructive trusts over the properties known municipally as 3270 American Drive, Mississauga, Ontario; 324 Prince Edward Drive, Toronto, Ontario; 777 St. Clarens Avenue, Toronto, Ontario; and 260 Emerson Avenue, Toronto, Ontario.

4. **THIS COURT** grants leave to appeal the costs ordered against the Appellants in favour of the Respondents at Paragraph 14 of the Order of Justice Newbould dated September 23, 2016 in respect of the Appellants' Application (Court File No. CV-13-10280-00CL) and Paragraph 4 of

the Order of Justice Newbould dated September 23, 2016 in respect of CDJ's Application (Court File No. CV-15-10879-00CL).

5. **THIS COURT ORDERS** that the Appellants and Respondents be permitted to make succinct written submissions to this Court in respect of the costs of the Application and Motion appealed from within 30 days of the date of this Order.

THIS ORDER BEARS INTEREST at the rate of 3 percent per year commencing on January 25, 2018.



DM (Signature of Judge) *DM*

D. MURPHY

REGISTRAR

COURT OF APPEAL FOR ONTARIO

ENTERED AT / INSCRIPT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

DM FEB 14 2018

PER / PAR:

DBDC SPADINA LTD. et al.
Applicants
(Appellants)

-and- NORMA WALTON et al.
Respondents

Court of Appeal File No. C62822

COURT OF APPEAL FOR ONTARIO

PROCEEDING COMMENCED AT TORONTO

ORDER

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