

CITATION: Edell v. Canada Revenue Agency, 2012 ONCA 8
DATE: 20120105
DOCKET: C53613

COURT OF APPEAL FOR ONTARIO

Sharpe, Blair and Rouleau J.J.A.

BETWEEN

Stephen Anthony Edell

Appellant

and

Canada Revenue Agency, Industry Canada (Superintendent in
Bankruptcy and Official Receiver) and Risman & Zysman Inc.

Respondents

Stephen Edell, in person

Shahana Kar, for the respondent Canada Revenue Agency

Heard & released orally: December 22, 2011

On appeal from the order of Justice S.E. Pepall of the Superior Court of Justice dated
March 28, 2011.

ENDORSEMENT

[1] The bankruptcy court judge refused to annul the appellant's bankruptcy and refused to stay the bankruptcy pending the outcome of the appellant's damages action against the CRA in the Federal Court.

[2] The appellant appeals that order but in oral submissions asked us to stay the bankruptcy and adjourn the appeal against the refusal to nullify the bankruptcy pending the decision of the Federal Court in the damages action.

[3] In our view, the appeal and the request for a stay must be dismissed. We see no error on the part of the bankruptcy court judge in concluding that there was no basis to set aside the bankruptcy.

[4] The CRA exercised its statutory right to vote down the appellant's proposal. The appellant knew when he made the proposal that there was every likelihood that it would be voted down and that bankruptcy would follow.

[5] The Federal Court of Appeal has concluded that the bankruptcy does not prevent the appellant from pursuing his personal claim in the Federal Court. The issue of whether the CRA's action in relation to the proposal warrant nullification of the bankruptcy are for the Ontario Bankruptcy Court. Whatever the Federal Court decides in the damages action, that cannot affect the legal validity of the bankruptcy. We see no basis for staying the bankruptcy in the circumstances.

[6] Accordingly, the appeal is dismissed with costs fixed at \$5,000 inclusive of disbursements and applicable taxes.

“Robert J. Sharpe J.A.”
“R.A. Blair J.A.”
“Paul Rouleau J.A.”