

COURT OF APPEAL FOR ONTARIO

CITATION: Denis v. Denis, 2012 ONCA 886

DATE: 20121214

DOCKET: C55177

Doherty, Goudge and Hoy JJ.A.

BETWEEN

Patricia Denis

Applicant (Respondent in Appeal)

and

Maurice Denis

Respondent (Appellant)

Sharon Sabourin, for the respondent (appellant)

Peter J. Doucet, for the applicant (respondent in appeal)

Heard: December 13, 2012

On appeal from the judgment of Justice Robert Riopelle of the Superior Court of Justice, dated February 6, 2012.

APPEAL BOOK ENDORSEMENT

[1] The parties are in agreement as to the standard of review. Deference is owed to the trial judge on these matters.

[2] The appellant's submissions focused on the 2009 calculation and the retroactive aspect of the spousal support order.

[3] Counsel submitted that the trial judge failed to take into account the huge debt load being carried by the appellant in 2009. There were "family related" debts. In fact, the trial judge specifically took that factor into account (see para. 52). The weight to be assigned to that factor was for the trial judge.

[4] We also cannot accept the argument that the size of the retroactive award was so crushing as to impose an unreasonable hardship. Once again, the trial judge was alive to this concern. As the trial judge observed, much of the problem flowed from the appellant's failure to make any spousal payments for a period of time and the making of inadequate payments for a further period of time. We cannot interfere with the trial judge's exercise of his discretion absent an error in principle. We see no such error.

[5] The appeal is dismissed. Costs to the respondents in the amount of \$6,500, "all in".