

COURT OF APPEAL FOR ONTARIO

CITATION: Susin v. Susin, 2014 ONCA 461

DATE: 20140612

DOCKET: C57717 and M43592

Hoy A.C.J.O., Cronk and Pepall JJ.A.

BETWEEN

Dianne Susin, Esther Susin, Theresa Lensborn

Plaintiffs (Appellants)

and

Fermino Susin and Habibur Rahman

Defendants (Respondents)

Jean-Alexandre De Bousquet, for the appellant, Dianne Susin, no one appearing for the other appellants

Margaret A. Hoy, for the respondents/moving parties

Heard and released orally: June 9, 2014

On appeal from the order of Justice David Price of the Superior Court of Justice, dated August 28, 2013.

ENDORSEMENT

[1] In our view, this appeal must be quashed.

[2] The order under appeal stayed the appellants' motion for various forms of relief, transferred the proceeding to the Superior Court of Justice in Welland to be joined with Court File Nos. 3738/05 and 9600/05, and awarded the respondents costs in the total amount of \$3,500, payable forthwith. Nothing in the order finally

determined the matters in issue between the parties. Accordingly, the order in question is interlocutory in nature and this court is without jurisdiction to entertain the appeal. On this ground alone, the appeal is quashed.

[3] We also note that the record before us confirms the existence of several outstanding costs orders in other proceedings involving these appellants and one or more of the respondents to this appeal. These appear to include several costs orders in the Superior Court of Justice, as well as costs awarded by this court against these appellants and in favour of the respondent Fermino Susin by orders dated June 3, 2008 (C47484 – \$3,500) and November 23, 2010 (C51985 and C51221 – \$1,500). In our view, this appeal should also be quashed on the basis of the appellants' persistent and unexplained failure to honour these costs orders.

[4] The respondents' motion to quash is allowed and the appeal is quashed. It follows that the appellants' cross-motion to dismiss the motion to quash is dismissed. The respondents are entitled to their costs of the motion, fixed in the amount of \$3,500, inclusive of disbursements and H.S.T.

“Alexandra Hoy A.C.J.O.”

“E.A. Cronk J.A.”

“S.E. Pepall J.A.”