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Summary

32316

Harold C. Gaffney v. In the Matter of the Bankruptcy of Sheila Frances Gaffney, et al.

(British Columbia) (Civil) (By Leave)

Keywords

Procedural Law.

Summary

Case summaries are prepared by the Office of the Registrar of the Supreme Court of Canada (Law Branch) for information purposes only.

Judgments and orders - Appeal - Extension of time - Motion to vary denial of extension of time - Applicant applied to annul discharge of bankruptcy - Applicant found to be without standing to make application - Applicant sought to appeal that decision outside the prescribed time - Extension of time denied - Motion to vary decision on extension of time denied - Whether Court of Appeal erred in denying motion to vary.

Harold Gaffney is the estranged husband of Sheila Gaffney. When Ms. Gaffney filed an assignment in bankruptcy in May 2005, her one-half interest in a piece of property she and Mr. Gaffney owned as joint tenants was transferred to the trustee. No proofs of claim were filed in the bankruptcy; in particular, Mr. Gaffney made no claim. In May 2006, the Registrar of the Supreme Court of BC granted Ms. Gaffney a discharge. Mr. Gaffney attended the Registrar's hearing, but did not raise any objection to the discharge. The trustee then transferred Ms. Gaffney's interest in the property back to her.

Mr. Gaffney then applied before a judge to have the discharge annulled and for ancillary relief. The application was later broadened to an application for an order declaring the bankruptcy annulled. The trustee applied for a declaration that Mr. Gaffney had no legal standing to ask for an order annulling the order for discharge of the bankruptcy, or, in the alternative, an amendment of Mr. Gaffney's. Mr. Gaffney was found to be without standing and his application was struck out and dismissed. Mr. Gaffney sought to appeal that decision, but did so outside the prescribed time. A motion for an extension of time was denied by a single judge of the Court of Appeal. A panel of the Court of Appeal then denied a motion to vary that decision.

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