

Citation: Rochelle et al. v. The Rural Municipality
of St. Clements et al., 2014 MBCA 102

Date: 20141105
Docket: AI14-30-08113

IN THE COURT OF APPEAL OF MANITOBA

Coram: Madam Justice Freda M. Steel
Mr. Justice Alan D. MacInnes
Mr. Justice Marc M. Monnin

BETWEEN:

BARRY ROCHELLE and)	
JACQUELINE ROCHELLE)	B. Rochelle and
)	J. Rochelle
<i>(Plaintiffs) Appellants</i>)	<i>on their own behalf</i>
)	
<i>- and -</i>)	B. R. Bowley
)	<i>for the Respondents</i>
THE RURAL MUNICIPALITY OF)	
ST. CLEMENTS and THE SELKIRK)	<i>Appeal heard and</i>
DISTRICT PLANNING AREA)	<i>Decision pronounced:</i>
)	November 5, 2014
<i>(Defendants) Respondents</i>)	

STEEL J.A. (for the Court):

[1] The issue on this appeal is whether the motion judge erred by ordering that this action be managed under Queen's Bench Rule 20A, Man. Reg. 553/88.

[2] The order under appeal is a discretionary decision which is owed significant deference. If there has been no error in principle (to be reviewed on the correctness standard) or an error on a question of fact (to be reviewed on the palpable and overriding error standard), this court will not interfere with the discretionary decision of the motion judge unless it is so clearly wrong as to amount to an injustice. See *Towers Ltd. v. Quinton's Cleaners Ltd. et al.*, 2009 MBCA 81 at paras. 24-28, 245 Man.R. (2d) 70; and *Olfman v. RBC Life Insurance Company*, 2011 MBCA 86.

[3] In this case, the appellants, who are self-represented, argue that the motion judge misapprehended the nature of the action and the damages arising from their claim and, therefore, could not have applied the criteria correctly or exercised her discretion appropriately. The appellants also argue that given the complexity of their action, proceeding under the expedited rule would limit them unnecessarily.

[4] We are all of the view that the appellants have failed to demonstrate that the motion judge misdirected herself or committed any palpable and overriding error. Moreover, we have not been convinced that the decision of the motion judge is wrong, let alone so clearly wrong as to amount to an injustice.

[5] To the contrary, we agree with the motion judge that this action is exactly

the kind of action that should be placed under Rule 20A. Proportionality is the overarching concern here. The proportionality principle means that the best forum for resolving a dispute is not always the one with the most painstaking procedure. The courtroom is not the private preserve of any single litigant to be used as they see fit. The appropriate utilization of judicial resources is a public concern and one which courts should consider in reaching their decisions (*Hryniak v. Mauldin*, 2014 SCC 7).

[6] In this case, it was obvious from the comments of the appellants during oral argument that they had many misconceptions as to the procedures required to pursue their action. This is natural given that they do not have legal representation. However, it is also obvious that proceeding under the expedited rule will benefit both parties in this case as well as the justice system as a whole.

[7] The appeal is dismissed with costs.

_____ J.A.

_____ J.A.

_____ J.A.