

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

RHIAN MOORE

Applicant

- and -

THOMAS MOORE

Respondent

MEMORANDUM OF JUDGMENT

[1] This mother filed an Originating Notice of Motion on September 26, 2008, claiming custody of a one year old child, child support and day care expenses, an equalization of net family property and for an order for the sale of the family home. Notice To Respondent was attached requiring the Respondent to provide the usual financial information pursuant to the Child Support Guidelines.

[2] The Respondent represented himself in chambers on November 20, 2008, but has not appeared on at least four subsequent motions. He has not produced financial information as required by notice and court order, he has failed to consistently pay child support, and more importantly for this application, he has not made mortgage payments or paid few, if any, household bills on the family home where he has lived since the parties separated in July of 2008.

[3] The Applicant is servicing approximately \$25,000.00 in family debt, is paying for child care by herself and is and has been in a desperate financial situation for some months. The mortgagee bank has now started foreclosure proceedings and the applicant is rightly concerned that she and the Respondent will lose a great deal of equity in the family home if it is sold pursuant to this process. The

Applicant has had the property appraised at \$240,000 and now seeks an order allowing her to complete the sale without the Respondent's consent.

[4] Donald Large, Q.C., appeared at the return of this motion on May 28, 2009, as a "friend of the court" to advise that the Respondent had made application to the Legal Services Board but that a decision would not be made on his eligibility until the week of June 1, 2009, and accordingly suggests an adjournment would be appropriate. Counsel for the applicant strenuously opposes the adjournment submitting that there is now an offer to purchase the home for \$240,000.00, that time is of the essence and points out that the Respondent has ignored these proceedings and his obligations throughout and is only now concerned because the home where he is residing may be sold.

[5] Since his initial appearance the Respondent has not appeared on subsequent motions or filed affidavit material. The court is left with the affidavit evidence of the Applicant and has no reason to disbelieve her assertions. The Respondent's conduct has imperilled the financial well being of both himself and the Applicant and has not been in the best interests of the child of the marriage. This court, by Order dated January 29, 2009, directed that the family home be listed for sale. What is different on this occasion is that there is an outstanding offer to purchase.

[6] Given the circumstances, I will order that the time for service of this application be abridged, and that pursuant to s. 54 of the *Family Law Act*, the Applicant shall have leave to accept any offer on the family home at 404 Paradise Road, in Hay River, that is at or above the appraised value of \$240,000.00 without the consent of the Respondent. Also, the Respondent shall be restrained from disposing of any family property or assets without the consent of the Applicant. All other issues including custody, child support, child care expenses, possession of the family home, the Respondent's alleged contempt and costs are adjourned to June 11, 2009 to be dealt with at that time.

[7] I direct that a copy of this Order be provided to Mr. Large or a colleague at his office.

D.M. Cooper
J.S.C.

Dated this 1st day of June, 2009.

Counsel for the Applicant: Karina Winton

No one appearing on behalf of the Respondent.

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MEMORANDUM OF JUDGMENT OF
THE HONOURABLE JUSTICE D.M. COOPER
