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Date: 20260102
Citation: *Sembsmoen v. Klaveren*, 2026 YKSM 1 Docket: 25-S0054
Registry: Whitehorse

SMALL CLAIMS COURT OF YUKON
Before His Honour Judge Christie

LILY-ANN MARIE SEMBSMOEN

Plaintiff

v.

REUBEN VAN KLAVEREN

Defendant

Appearances:
Lily-Ann Marie Sembsmoen — Appearing on her own behalf
Reuben van Klaveren — Appearing on his own behalf

REASONS FOR JUDGMENT

[1] The Plaintiff, Lily-Ann Marie Sembsmoen, brought a Claim seeking $25,000 from the Defendant, Reuben van Klaveren, based on a promissory note (the "Promissory Note"). Mr. van Klaveren denies this Claim because of a subsequent separation agreement (the "Separation Agreement").

[2] As a preliminary matter, I note that in the various documents filed the Plaintiff's name is spelled differently. There was no suggestion that any of the materials were referring to anyone other than the Plaintiff. For the purposes of this decision, I have assumed that the Plaintiff's spelling of "Lily-Ann" is correct.

[3] The trial took place on November 3, 2025. The parties provided a number of documents in support of their respective positions, and each testified on their own behalf. While I have considered all the evidence and materials, I will refer only to those relevant to this decision.

Overview

[4] By way of background, Ms. Sembsmoen and Mr. van Klaveren lived together from June 2011 to February 2019. They resided together at 17 Diamond Way, Unit B, Whitehorse, Yukon (the "Family Home").

[5] Upon separation, the parties signed two relevant documents. The Promissory Note was signed by both parties on October 28, 2019, which included the following terms:

> Lily-Anne [*sic*] Marie will receive a payout of $30,000.00 (CAD) upon completion of the land title change.
>
> Lily will receive an additional $25,000.00 (CAD) from Reuben van Klaveren paid in full by 2025.

[6] The Separation Agreement finalized on November 26, 2025, included transfer of Ms. Sembsmoen's interest in the Family Home to Mr. van Klaveren in exchange for an equalization payment of $30,000, payable from Mr. van Klaveren to Ms. Sembsmoen, which was paid.

Positions of the Parties and Evidence

[7] With respect to her Claim, Ms. Sembsmoen's position is that Mr. van Klaveren owes her $25,000, pursuant to the Promissory Note. She is also seeking reimbursement for the $100 filing fee and $26.51 postage fee, as well as any applicable interest and court costs.

[8] Her evidence is that the Promissory Note was not meant to be disregarded following the Separation Agreement, and that $25,000 remains owing. In support, she relies on numerous text messages exchanged between August 11, 2020, and March 6, 2024, asking Mr. van Klaveren for payment. The Promissory Note set out a schedule for the $25,000 to be "paid in full by 2025." She explained that this was to be paid in monthly installments, starting in January 2020 and ending in January 2025. She testified that the monthly payments of $417 were to start January 2020, but that no payments were made.

[9] Ms. Sembsmoen also contended that the Promissory Note was intended to stand notwithstanding the Separation Agreement because it included reference to that document as follows:

> This will be a total payout $55,000.00 from Reuben van Klaveren to Lily-Anne [*sic*] Marie Sembmoen following our legal separation agreement.

[10] Ms. Sembsmoen also explained that the original deposit for purchase of the Family Home was funded in large part by her parents, who loaned her "$17,000 to $18,000," and that Mr. van Klaveren agreed to pay back half that loan, with Ms. Sembsmoen being responsible for the other half. Ms. Sembsmoen stated that she

eventually had to pay her parents back the full amount of the loan, from the $30,000 payment she received.

[11] Ms. Sembsmoen explained that the Separation Agreement did not include the $25,000 or reference to the Promissory Note because she agreed to Mr. van Klaveren's request for a "side-deal," whereby the Separation Agreement would not include reference to the $25,000 or reference to the Promissory Note, because by doing so, it would make it more difficult for him to be approved by the bank to be the sole mortgagor. She testified that she had no reason not to believe Mr. van Klaveren because it had been a civil separation and they were "getting along."

[12] In signing the Separation Agreement, Ms. Sembsmoen explained that she could not afford to pay for a lawyer and that she understood that she was waiving her right to obtain independent legal advice. She described herself as "not being in a good mental state" when she signed the Separation Agreement because of the recent death of a family member. However, she did not express any misunderstandings or confusion about the terms of the Separation Agreement.

[13] Mr. van Klaveren's position is that all financial matters between the parties were resolved with finality, with the Separation Agreement, and that he does not owe Ms. Sembsmoen $25,000 as she claims. Specifically, he contends that because the Separation Agreement did not include the additional $25,000 that was included in the Promissory Note, it was no longer part of the overall resolution and therefore not owed.

[14] Mr. van Klaveren disagrees with and denies Ms. Sembsmoen's evidence that she agreed to Mr. van Klaveren's request for a "side-deal," whereby the Separation

Agreement would not include reference to the $25,000 or reference to the Promissory Note. He states that there was no such agreement. Instead, he contends that from his perspective, the additional $25,000 set out in the Promissory Note was part of the "different values" being discussed as "possible," but ultimately, the Separation Agreement did not include this amount, and that the exclusion of the $25,000 was intentional.

[15] Mr. van Klaveren also points to two portions of the Separation Agreement as confirmation of the parties' intentions about certainty and finality:

> 14.01 Lily-Ann and Reuben
>
> (a) intend this Agreement to be final as to all claims;
>
> (b) release all claims (other than to enforce this Agreement) arising out of their relationship, past events and financial dependency;
>
> (c) acknowledge that each may encounter drastic changes in their respective incomes, assets and debts, in the cost of living or in their health, or changes of fortune by reason of unforeseen factors; and
>
> (d) except as provided in this Agreement, agree that under no circumstances will any change, direct or indirect, foreseen or unforeseen, in the circumstances of either of them, give either the right to claim any alteration of any of the terms of this Agreement.
>
> 14.02 Lily-Ann and Reuben each wishes to be able to rely upon this Agreement as the final and binding one in which support and property provisions are inexplicably combined to constitute a final financial settlement; and Lily-Ann and Reuben understand and agree that this Agreement is a once and for all settlement of all their differences and affairs and have entered into this Agreement to avoid ever engaging in litigation with each other, whether about matters or causes of action existing now or later.

[16] Mr. van Klaveren received independent legal advice from his retained lawyer, as confirmed by the Certificate of Independent Legal Advice signed November 24, 2019, and attached to the Separation Agreement. Ms. Sembsmoen's signed Waiver of Independent Legal Advice, dated November 26, 2019, is also attached to the Separation Agreement. Included in that document is an explicit recognition that she should have legal advice, but she has refused to do so and that she has read and understands the Separation Agreement. The document also confirms her executing it of her own free will without pressure or coercion from anyone.

Issue

[17] The key issue to be decided is whether the $25,000 set out by the Promissory Note remains owing by the Defendant, despite the subsequent Separation Agreement, which does not include reference to that debt.

Analysis

[18] In addressing this issue, I am mindful of the applicable law. Key principles about separation agreements can be derived from the decision of the Supreme Court of Canada, *Miglin v. Miglin*, 2003 SCC 24. The Court recognized the "significant policy goal of negotiated settlement" and the importance of respecting "the parties' autonomy and freedom to structure their post-divorce lives in a manner that reflects their own objectives and concerns" (*Miglin* at para. 66).

[19] The Court concluded, in part, at para. 91 of *Miglin* as follows:

> Although we recognize the unique nature of separation agreements and their differences from commercial contracts, they are contracts nonetheless. Parties must take responsibility for the contract they execute as well as for their own lives. It is only where the current circumstances represent a significant departure from the range of reasonable outcomes anticipated by the parties, in a manner that puts them at odds with the objectives of the Act, that the court may be persuaded to give the agreement little weight. …

[20] In the case at bar, the Separation Agreement sets out how all family debts and assets are to be divided between the parties. The Separation Agreement did not include any reference to the pre-existing Promissory Note. However, it did explicitly state that both parties made full disclosure of each of their assets and liabilities. The specific debts and liabilities listed included the debt amount and who owed each, including loans, credit cards, and a line of credit. Neither party challenged the legality, fairness, or validity of the Separation Agreement in these proceedings.

Decision

[21] Firstly, I find that at trial both parties conducted themselves in court in a civil, respectful, and polite manner, despite the issues in play. I am unable to find that either party was attempting to be deceitful or untruthful, despite being at odds about what was and what was not agreed upon at the time the Separation Agreement was finalized.

[22] Ms. Sembsmoen claims that a Letter of Understanding dated October 28, 2019, which was filed by Mr. van Klaveren, is not authentic. This document purports to be signed by both parties on the same day as the Promissory Note. She asserts that she did not sign it. The Letter of Understanding includes the same term that Ms. Sembsmoen will receive a payout of “$30,000 (CAD)” for the land title change, but it

does not mention the $25,000 as set out in the Promissory Note. Both parties accept the Promissory Note as valid and authentic and there is nothing in the Letter of Understanding that negates or precludes the Promissory Note. Therefore, I give no consideration to the Letter of Understanding, nor do I need to.

[23] Secondly, the Separation Agreement is clear and sets out the parties' intention to finalize all distribution of all debts and assets. It was open to the parties to include the $25,000 debt set out by the Promissory Note to remain owing by the Defendant, but it was not included. The Plaintiff's explanation of a "side deal" represents an agreement that if true, would amount to a false representation to mislead the bank in approving a new mortgage with Mr. van Klaveren as the sole mortgagor. Mr. van Klaveren denies that there was a "side deal." I was unable to determine who was telling the truth about this issue but regardless, it had no bearing on my decision, as the provisions of the Separation Agreement, signed by both parties, are clear.

[24] A separation agreement is intended to be a final resolution to a relationship that has ended. The Separation Agreement contains numerous explicit and determinate statements that assert and affirm this finality regarding distribution of all the parties' debts and assets. With respect to the Family Home, only the payment of $30,000 is referenced. Ideally, the Separation Agreement should have referenced the Promissory Note and set out that it was either included or excluded from the Agreement. However, in the absence of such a reference, I am left with the Separation Agreement and its contents as is.

[25] Given the explicit and repeated statements of the Separation Agreement being clearly intended as a final resolution of all financial matters between the parties and the absence of any reference to the $25,000 from the Promissory Note that had preceded the Separation Agreement, I find that the Claim cannot succeed. Parties who negotiate and settle their affairs with a separation agreement are entitled to rely on that for certainty and finality in their lives.

[26] Accordingly, the Claim is hereby dismissed. Each party shall bear their own costs.

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CHRISTIE T.C.J.