Kapani v. Rana

Circuit Court of Fairfax County, Virginia
February 15, 2001, Decided
In Chancery No. 169082

Reporter: 55 Va. Cir. 16; 2001 Va. Cir. LEXIS 52

Re: S. Roy Kapani and Manisha Kapani v. Sher J. Rana and Vinay Rana

Core Terms

attorney's fees, award of damages, prayer

Counsel: **[**1]** James V. Irving, Esquire, Becker, Hicks, Irving & Hadeed, P.C., Springfield, Virginia.

Mr. Sher J. Rana, Mrs. Vinay Rana, McLean, Virginia.

Judges: Robert W. Wooldridge, Jr.

Opinion by: Robert W. Wooldridge, Jr.

Opinion

[*16] OPINION LETTER

Dear Mr. Irving, and Mr. and Mrs. Rana:

This matter came before me on February 13, 2001 for argument on the Commissioner's report and exceptions to that report [1] filed by the respondents (″the Ranas″), on complainants' (″the Kapanis'″) motion for an award of costs and attorneys' fees, and on the Ranas' motion for an award of damages. Following evidence and argument, I took the matters under advisement.

Having now reviewed the Commissioner's report, the transcript of the Commissioner's hearing and all the pleadings, the report of the Commissioner in this matter is **[**2]** confirmed and the Ranas' exceptions to the Report are overruled. The Ranas' motion for damages is denied. The Kapanis are awarded $ 6,300.80, representing the Commissioner's fee, the cost of the transcript of the hearing, service of process and filing fees, and related costs. The Kapanis withdrew their request for an award of damages.

The Kapanis' prayer for attorneys' fees is based on their assertion that the defenses in this case were without merit throughout. The Kapanis do not rely on any statute for recovery of attorneys' fees (according to their counsel). Instead, they rely upon the discretion of the court to make such an award when no meritorious defense existed, and when the defense offered was ″vexatious.″ **[*17]** I find no authority to make an award of attorneys' fees under such circumstances. The Kapanis' prayer for attorneys' fees is denied.

The Kapanis are awarded permanent injunctive and declaratory judgment relief consistent with their requests and the Commissioner's report.

Very truly yours,

Robert W. Wooldridge, Jr.

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[1] The Exceptions to Commissioner's Report purports to be filed on behalf of both Mr. and Mrs. Rana. The signature page shows only the name of Mr. Rana. Both Mr. and Mrs. Rana are appearing *pro se* in this matter.