In the Court of Appeal of Alberta

Citation: Akalu v Albano, 2026 ABCA 367

Date: 20261113
Docket: 2501-0196AC
Registry: Calgary

Between:

Teresa Akalu also known as Teresa Albano

Appellant

- and -

David Albano

Respondent

The Court:

The Honourable Justice Anne Kirker
The Honourable Justice William T. de Wit
The Honourable Justice Kevin Feth

Memorandum of Judgment
Delivered from the Bench

Appeal from the Order by
The Honourable Justice R.W. Armstrong
Dated the 13th day of June, 2025
Filed on the 10th day of July, 2025
(Docket: FL01-31008)

Memorandum of Judgment
Delivered from the Bench

The Court:

[1] This appeal concerns a Court of King's Bench order requiring the appellant to pay the respondent $13,850.83 pursuant to several arbitration awards issued in 2020.

[2] Following the breakdown of their 17-year marriage, the parties attended arbitration. The final arbitration award, dated February 5, 2020, addressed many issues, including parenting time and support. Of most relevance to this appeal are the directions on matrimonial property division and costs. The parties had generally agreed to an equal division of property, subject to several adjustments determined by the arbitrator. The respondent was ultimately directed to pay the appellant $84,449.50 from his portion of the matrimonial property sale proceeds. The arbitrator further directed that costs of the arbitration be shared equally. To achieve this, the respondent was permitted to deduct 50% of the total arbitration bill up to and including March 31, 2020, from the $84,449.50 he was ordered to pay the appellant.

[3] The parties later agreed that instead of selling their property and dividing the proceeds, they would each retain one property. On March 25, 2020, a supplemental consent arbitration award was issued to provide for this change. The arbitrator also determined that the appellant would still be responsible for paying the respondent $6,882.50 to account for certain property division adjustments as determined in the February 2020 arbitration award.

[4] Conflict continued between the parties. On May 29, 2020, the arbitrator issued another supplemental arbitration award to address, among other things, the outstanding amounts owing between the parties. After considering the various setoffs, the arbitrator found nothing further was owing as of the date of the award, except for ongoing child support payable by the respondent, $100/day for each day the respondent did not transfer the agreed-upon property to the appellant, and any further losses on that property until its transfer to the appellant.

[5] On July 6, 2020, an amended supplemental arbitration award was issued to include a maintenance enforcement clause. Otherwise, the May 2020 award remained unchanged.

[6] On April 25, 2025, the respondent filed an application in the Court of King's Bench seeking various relief, including a variation to child support and the enforcement of arbitration costs. The chambers judge denied the child support variation application but ordered the appellant to pay the respondent "$13,850.83 ... for amounts awarded by the arbitrator ($6,968.33 for her 1/2 of the cost of the arbitration plus $6,882.50 arising from amounts awarded in the Supplemental Arbitration Award)."

[7] The appellant was granted permission to appeal the portion of the chambers judge's order requiring her to pay the respondent $13,850.83 as well as a stay pending appeal of that portion of the order: *Akalu v Albano*, 2026 ABCA 9.

[8] The respondent concedes the chambers judge erred in ordering the appellant to pay him $6,882.50 pursuant to the supplemental arbitration award of March 2020 because the subsequent

arbitration awards issued in May and July 2020 determined this amount was no longer owing. However, the respondent maintains he is entitled to $6,968.33 for 50% of the arbitration costs up until March 31, 2020, that he paid, as directed in the February 2020 award.

[9] Although the respondent did not file the May or July 2020 arbitration awards in the Court of King's Bench, despite their obvious relevance to his application, the appellant included them in her responding materials. Because of this and the fact that the chambers judge quoted directly from the July 2020 award in his oral reasons, albeit in the context of child support, we are satisfied he was aware of these later awards. However, he misapprehended or failed to consider them when concluding the appellant still owed the respondent $6,882.50. As both parties submit, it was clear on the face of the awards that the appellant owed nothing further to the respondent for the various property adjustments. The appeal is allowed with respect to the $6,882.50.

[10] The portion of the appeal relating to the $6,968.33, representing 50% of the arbitration costs up to and including March 31, 2020, is dismissed. In determining that the appellant still owed this amount to the respondent, the chambers judge interpreted the arbitration awards in light of the evidence before him. Based on the evidentiary record for this appeal, we are not persuaded he made a reviewable error in concluding that the costs direction in the February 2020 award was extant, notwithstanding the subsequent awards. While the *manner* in which the parties were to settle the payment of costs was initially by way of setoff with the property division adjustments, the respondent's *entitlement* to 50% of the costs was not affected by the subsequent awards which altered how the division of property would occur.

[11] The appeal is allowed in part. The appellant is ordered to pay the respondent $6,968.33, representing 50% of the costs of the arbitration billed up to and including March 31, 2020.

[12] The parties shall each bear their own costs for this appeal.

[13] Rule 9.4(2)(c) is invoked, and the Court will prepare the resulting order.

Appeal heard on November 9, 2026

Memorandum filed at Calgary, Alberta
this 13th day of November, 2026

Kirker J.A.

de Wit J.A.

Feth J.A.

Appearances:

Appellant T. Akalu

E. Couto
for the Respondent