

Bossin v. Bossin

Between
Sidney Leon Bossin, (appellant), and
Ellen Bossin, (respondent)

[\[2003\] O.J. No. 4840](#)
Docket No. C39810

**Ontario Court of Appeal
Toronto, Ontario
Catzman, Doherty and Laskin JJ.A.**

Heard: December 11, 2003.
Judgment: December 11, 2003.
(2 paras.)

Civil procedure — Appeals — Family law — Separation agreements — Domestic contracts and marriage contracts — Variation.

Appeal by the husband from the dismissal of an application to vary support. The husband entered into a separation agreement that specifically contemplated his retirement and the appropriate disposition of his retirement income as between him and the wife. The trial judge reviewed the extensive record and found that there was no material change in circumstances, either in the husband's financial situation or his health. The trial judge held that the financial difficulties of the husband were the result of his debts and lifestyle. The wife remained dependant on the husband for support. The application for variation was denied.

HELD: Appeal dismissed. The husband showed no material change in circumstance. The decision of the trial judge was entitled to deference from the court of appeal. No reversible errors were shown by the husband. Costs of \$4,500 were awarded to the wife.

Appeal From:

On appeal from the judgment of Justice Faye E. McWatt of the Superior Court of Justice dated February 24, 2003.

Counsel:

Sidney L. Bossin, the appellant, on his own behalf.
James D. Singer, for the respondent.

The following judgment was delivered by

¶ 1 **THE COURT** (endorsement):— The appellant entered into a separation agreement that specifically contemplated his retirement and the appropriate disposition of his retirement income as between him and the respondent. As McWatt J. recognized, once the agreement was incorporated into a judgment, in order to vary his spousal support obligation, the appellant was required to demonstrate a material change in circumstances. Having reviewed the extensive record before her, she found that there was no material change in circumstances, either in the appellant's financial situation or his health, that called for a change in his support obligation. Rather, she found that his financial difficulties were the product of his debts and his lifestyle. She further found that the respondent is, and continues to be, dependent on the appellant for support.

¶ 2 McWatt J.'s findings are entitled to deference in this court, and we are not persuaded that she made any reversible error in making them. Accordingly, the appeal is dismissed with costs, fixed in the amount of \$4,500, inclusive of disbursements and G.S.T.