

IN THE SUPREME COURT OF BRITISH COLUMBIA

Date: 20070619
Docket: M015269
Registry: Vancouver

Between:

Hwei San (Susan) Chow

Plaintiff

And:

Allan Dale Butters

Defendant

Before: The Honourable Mr. Justice Maczko

Oral Reasons for Judgment

June 19, 2007

Counsel for Plaintiff

W. Mussio

Counsel for the Defendant

D. Robinson

Place of Trial/Hearing:

Vancouver, B.C.

[1] **THE COURT:** This is an action involving a motor vehicle accident. The only issue before me is liability.

[2] On March 3rd, 2000, the plaintiff was travelling east on Bridgeport Road in Richmond, British Columbia. The evidence was that in 2000, Bridgeport had two lanes going east and two lanes going west. The photographs appear to have a left turn lane between the four lanes in the middle at the intersection. The photographs were taken in 2002 and it may be that the configuration of the lanes was different in 2000. I have concluded that it does not make a difference to the result in this case.

[3] The plaintiff was in the lane nearest the centreline and approached the intersection intending to turn left on Garden City Way. When she arrived at the light there were three or four cars in front of her and she waited through a sequence of lights while the cars in front of her turned left. When the light turned red, she was the first car at the intersection and there was one car behind her. When the light turned green, she moved forward and entered the intersection, but it is not clear how far, with the intention of turning left. She waited until the light turned yellow. A car had stopped in the lane next to the centreline going west. She waited approximately two seconds and began her turn. As she entered the curb lane the defendant's car came through the intersection and struck her on the right front portion of her vehicle.

[4] The defendant was travelling in the lane next to the curb going west. The speed limit on Bridgeport is 50 kilometres per hour. The defendant said he was travelling at 60 kilometres per hour because he thought that was the speed limit. He said that as he approached the intersection the light was green for two blocks;

however, it turned yellow when he was two car lengths from the intersection. He said that he momentarily let up on the gas but realized that he would not be able to stop in time, so he accelerated in an attempt to get through the intersection and thereby avoid a collision. When he went through the intersection, he was going more than 60 kilometres per hour when he struck the plaintiff's car. It was raining and the road was wet.

[5] I find the defendant 100 percent responsible for the accident. He was going over the speed limit and much too fast considering the slippery conditions. He saw that the light was green for two blocks as he was approaching the intersection and should have anticipated the change of light. He said he saw the plaintiff's car in the intersection and it was at an angle. He entered the intersection on a yellow light which is contrary to the s. 128 of the *Motor Vehicle Act*. A motor vehicle was stopped at the light on his left and he went past it into the intersection. The defendant must have entered the intersection late on a yellow light and it might even have been red.

[6] The plaintiff did nothing wrong. She entered the intersection when the light was green. She waited until the light turned yellow and the car had stopped in the lane next to the centreline across from her. She said she waited for two seconds, or so, and after the light turned yellow she then commenced her turn.

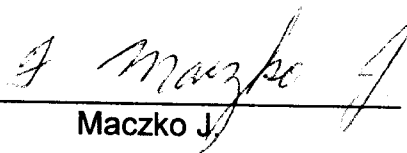
[7] Her evidence was corroborated by an independent witness who was immediately behind her. Two independent witnesses said the defendant entered the

intersection at a high rate of speed and; indeed, this was confirmed by the defendant himself.

[8] The question is whether the plaintiff should bear some responsibility for the accident in failing to see the defendant and in failing to ensure that the intersection was clear before she made her turn.

[9] I find that her actions were reasonable in the circumstances. A car had already stopped across from her. The defendant was going 60 kilometres per hour, which is ten kilometres per hour over the speed limit, and then accelerated even faster through the intersection. That is not an action which the plaintiff could reasonably have anticipated and I find no liability against the plaintiff.

[10] Costs will be in the cause.


Maczko J.