



Case in Brief: ***R.S. v. P.R.***

Judgment of October 25, 2019 | On appeal from the Court of Appeal of Quebec
Neutral citation: 2019 SCC 49

A Quebec court doesn't always have to put its proceedings on hold when a foreign court is hearing the same dispute, the Supreme Court has ruled.

In today's world, life crosses borders. But laws and courts are local. "Private international law" is the branch of law that deals with this. For example, a court may decide not to hear a case if another country has a stronger connection to it. A court in one country may even apply the laws of *another* country.

Two people met in France and got married in Belgium. They later moved to Quebec with their children. In 2014, the husband filed for divorce in Belgium. Three days later, the wife filed for divorce in Quebec. The husband later said he was taking back all the gifts he ever gave the wife. Belgian law said he could do this. The gifts totalled over \$33 million and included half of the family's home in Quebec.

The husband asked the Quebec court to "stay" the wife's application (that is, to put it on hold). This was because courts in two countries would be deciding the same dispute, and could make contradictory decisions. This is one of the problems private international law tries to avoid. The wife also asked the Belgian court to put the husband's case on hold. She said the Belgian law letting him take back the gifts was unconstitutional.

There are three conditions to meet before Quebec courts can consider putting proceedings on hold to wait for a decision in another country. First, someone must have asked for a court hearing in the other country first. Second, cases in both countries have to deal with the same legal dispute. Third, it has to be possible for the (eventual) foreign decision to be recognized in Quebec. If one of these conditions isn't met, the Quebec court can't order a stay. Even if all three conditions are met, the Quebec court still has the "discretion" not to order a stay. Discretion is a judge's freedom to decide certain issues. But there are limits to that freedom.

The application judge in Quebec said the third condition wasn't met. She said Quebec courts wouldn't recognize a Belgian decision taking back the gifts. This was because the law unfairly discriminated against spouses. That meant the case had to go forward in Quebec. Even if all the conditions were met, the application judge said she still wouldn't have used her discretion to put the Quebec proceedings on hold.

The Court of Appeal said all the conditions were met. It said the third condition was met if it was *possible* that the Belgian decision might be recognized in Quebec. It said the proceedings on divorce and division of property had to be put on hold in Quebec. (Other issues related to the children and support could go ahead.) It also said that the application judge made serious mistakes in using her discretion. In the meantime, the Belgian courts said *they* should decide most of the issues.

The Supreme Court majority agreed with the Court of Appeal that the husband met all three conditions for a possible stay. It said even though it wasn't clear if the Belgian decision would be recognized in Quebec, the husband had done enough to show it might be.

But the majority said the application judge's decision to hear the case should still stand. Even if the three conditions are met, Quebec courts shouldn't automatically put their proceedings on hold. A judge can still decide it's appropriate to hear a dispute in Quebec. This could be, for example, if Quebec was closely connected to the dispute. In this case, the family home (worth over six million dollars) was in Quebec. A Quebec decision would have some force even if Belgium didn't recognize it. The majority added even if it might not agree with the application judge's whole analysis, the Court of Appeal shouldn't have interfered. For issues where discretion can be used, the first judge to hear the facts is best-placed to decide. Higher courts can only interfere if the first judge made a serious legal or factual mistake. It can't just be a difference of opinion. The majority said the application judge didn't make such a mistake in this case.

The Supreme Court previously dealt with private international law in [*Barer v. Knight Brothers LLC*](#) and [*Haaretz.com v. Goldhar*](#).

Breakdown of the decision: *Majority:* Justice Clément [Gascon](#) allowed the appeal (Chief Justice [Wagner](#) and Justices [Moldaver](#), [Karakatsanis](#) and [Martin](#) agreed) | *Concurring:* Justice Rosalie Silberman [Abella](#) would have allowed the appeal because a decision under the Belgian law letting a spouse revoke gifts went against Quebec's and the international community's approach to spousal equality, and wouldn't be recognized in Quebec | *Dissenting:* Justice Russell [Brown](#) said the application judge made a legal error by failing to consider the risk of conflicting judgments, and so would have dismissed the appeal

More information (case # 37861): [Decision](#) | [Case information](#) | [Webcast of hearing](#)

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