British Columbia Supreme Court on Court Applications Rendering Arbitration Agreements Inoperable

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In the recent case **Montaigne Group Ltd. v. St. Alcuin College for the Liberal Arts Society, 2024 BCSC 1465**, the Supreme Court of British Columbia examined the interaction between court applications and the enforceability of arbitration agreements. The court's findings provide significant insights into how actions taken in court can potentially render an arbitration agreement inoperative.

Context and Overview

The case centered around a Joint Venture Agreement (JVA) between Montaigne Group Ltd. (Montaigne) and St. Alcuin College for the Liberal Arts Society (St. Alcuin). The JVA included a dispute resolution clause that emphasized self-settlement, mediation, and ultimately arbitration as mechanisms for resolving disputes between the parties. When disputes arose, Montaigne initiated litigation, which led to a legal examination of whether the arbitration clause in the JVA remained enforceable.

St. Alcuin applied to stay the court proceedings, arguing that the matter should be resolved through arbitration as stipulated in the JVA. Montaigne opposed the stay, contending that St. Alcuin had waived its right to arbitration by taking substantive steps in the litigation process.

Court’s Analysis

The court’s analysis was focused on whether St. Alcuin’s actions constituted a waiver of its right to arbitrate, thereby rendering the arbitration agreement inoperative under the **Arbitration Act**. Section 7(2) of the Act mandates that a court must stay proceedings unless the arbitration agreement is found to be void, inoperative, or incapable of being performed.

The central issue was whether St. Alcuin’s motion to strike Montaigne’s amended notice of civil claim amounted to a “step in the proceedings,” which would preclude a mandatory stay under section 7(1) of the Act. The court noted that while St. Alcuin had initially filed its notice of application to stay the proceedings before taking any other steps, the subsequent decision to bring a motion to strike was significant.

The court found that the motion to strike sought substantive relief from the court and addressed the core issues of the dispute. This action, according to the court, demonstrated an implicit affirmation of the court’s jurisdiction over the matter, which was inconsistent with the intent to arbitrate. The court concluded that by bringing the motion to strike, St. Alcuin had taken a substantive step in the proceedings that precluded it from later seeking to enforce the arbitration agreement.

Key Legal Principles

The court referenced the **Supreme Court of Canada’s decision in Peace River Hydro Partners v. Petrowest Corp.**, which established a framework for determining when court proceedings should be stayed in favor of arbitration. The framework includes technical prerequisites that must be met, such as whether an arbitration agreement exists and whether the court proceedings concern a matter agreed to be submitted to arbitration. The fourth prerequisite is particularly relevant

in this case: whether the party seeking a stay has taken any steps in the court proceedings.

The court also drew comparisons with the Ontario Court of Appeal's decision in **RH20 North America Inc. v. Bergmann**, where the defendant's participation in a motion to strike was found to constitute a waiver of the arbitration agreement. The Ontario court held that by seeking to strike out substantive claims, the defendant had elected to have the dispute resolved by the court, thereby rendering the arbitration agreement inoperative.

In applying these principles, the court determined that St. Alcuin's motion to strike constituted a substantive step in the litigation process. This action was found to be inconsistent with the arbitration agreement, leading to the conclusion that the agreement was rendered inoperative.

Impact on Arbitration Agreements

The court's findings highlight the importance of adherence to the dispute resolution mechanisms outlined in contracts. When a party takes a step in the court proceedings that seeks substantive relief, such as a motion to strike, this can be viewed as a waiver of the right to arbitrate. This case reinforces the principle that arbitration agreements must be respected, and parties should be cautious in how they engage with the court system when an arbitration agreement is in place.

Conclusion

In **Montaigne Group Ltd. v. St. Alcuin College for the Liberal Arts Society**, the Supreme Court of British Columbia provided clear guidance on the interplay between court applications and arbitration agreements. The court concluded that St. Alcuin's decision to pursue a motion to strike amounted to a step in the proceedings that rendered the arbitration agreement

inoperative. This decision underscores the need for parties to carefully consider their actions in court when an arbitration agreement governs their dispute.

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