

COURT OF QUEBEC

Small Claims Division

CANADA
PROVINCE OF QUEBEC
DISTRICT OF BEAUHARNOIS
LOCALITY OF VAUDREUIL-DORION
Civil Division
No: 760-32-016187-140

DATE: March 2, 2015

IN THE PRESENCE OF: THE HONOURABLE CÉLINE GERVAIS, J.Q.C.

HAINING YU
Plaintiff

v.

MONIQUE GAGNON INC.
Defendant

JUDGMENT

[1] Mr. Haining Yu claims \$ 787.58 from Monique Gagnon inc., representing the cost of a survey that was done on the house he was about to sell through the services of broker Monique Gagnon inc., allegedly without his permission.

[2] Mr. Haining gave two brokerage contracts to Monique Gagnon inc. for the sale of his home located on Bourget Street in Vaudreuil-Dorion, on December 21, 2011, and February 24, 2013.

[3] It appears from exhibit D-3, which is called "*Documents needed for file*" that was prepared by Mrs. Gagnon and given to Mr. Haining, that the certificate of location in his possession was old. This document was prepared during the first mandate. As

appears from handwritten notes filed as exhibit P-2, on a company Comparative market analysis, the following items are mentioned:

- Deed of sale;
- Taxes (municipal and school);
- Hydro;
- Certificate of location (survey);

[4] Mr. Haining was in possession of a certificate of location dated December 2, 2002, which was too old to be used for the sale of his home.

[5] According to Mrs. Gagnon, she asked Mr. Haining whether he wanted her to take care of finding a surveyor and have the certificate of location done before the appointment at the notary.

[6] Mr. Haining claims that he did not know, before being at the notary, that he had to pay for the certificate of location, having asked Mrs. Gagnon earlier if there was any other fee to pay, to which she answered no.

[7] Mr. Haining recognized that he could not have sold his house without such a survey, but considers that he suffered damage from the fact that a surveyor came to his house without his knowledge, that are equal to the amount he had to pay at the notary for the survey.

[8] Mrs. Gagnon proved at the hearing that she obtained a very competitive price for the survey, and that Mr. Haining did not pay more than what he was supposed to, on the contrary.

[9] Mr. Haining, who has given a double of his house keys to Mrs. Gagnon in order to facilitate the visits by prospective buyers, reproaches her not to have informed him of the date the surveyor would come, contrary to what she has done every time there was a visitor to his house.

[10] It appears from the voluminous email correspondence between Mr. Haining and Mrs. Gagnon that Mr. Haining had, at one point, some trouble to understand the difference between a bank evaluation of his property he obtained a few years earlier and a certificate of location.

ANALYSIS AND DECISION:

[11] There might have been a communication problem between Mrs. Gagnon and Mr. Haining regarding the certificate of location. What is certain, though, is that such a survey was essential to the sale of Mr. Haining's house, and that he was aware that a new certificate of location was needed.

[12] The Court cannot see any lack of professionalism or any fault in Mrs. Gagnon's conduct that could justify the amount of damages claimed by Mr. Haining.

[13] Consequently, his demand must fail.

FOR ALL THESE MOTIVES, THE COURT:

DISMISSES Plaintiff's demand;

CONDEMNS Plaintiff, HAINING YU, to reimburse Defendant, MONIQUE GAGNON INC., the amount of \$ 112 representing the costs she incurred to file her contestation.

CÉLINE GERVAIS, J.Q.C.