



PRACTICE

COSTS

Security for costs — Motion by respondent for security for costs pursuant to *Federal Courts Rules*, SOR/98-106 (Rules), r. 416(1)(f) both for appeal, action in which respondent successfully defended appellant's claim for patent infringement — R. 416(1)(f), read together with r. 415 authorizing Court to order appellant to give security for respondent's costs where "the [respondent] has an order against the [appellant] for costs in the same or another proceeding that remain unpaid in whole or in part." — Trial judge awarding respondent its costs (2021 FC 85) — Assessment not yet carried out — Respondent alleging, *inter alia*, that appellant seeking to make himself judgment-proof by transferring his interest in matrimonial home to his wife — Appellant opposing motion primarily on basis that prerequisite for r. 416(1)(f) to apply not yet met, i.e. at this stage no order against appellant for costs remaining unpaid in whole or in part — Whether order can be made under r. 416(1)(f) before costs said to be unpaid have been assessed — Appellant's position more consistent with distinction drawn in Rules between orders for costs, directions to assessment officer — Court directions under rr. 400, 403 may be set out in an order or judgment — Until assessment officer completes assessment in accordance with trial judge's directions, costs not payable — Security for costs regime having to operate fairly for all parties involved — Motion dismissed.

BETSER-ZILEVITCH V. PETROCHINA CANADA LTD. (A-57-21, 2021 FCA 76, Laskin J.A., reasons for order dated April 15, 2021, 8 pp.)