

CANADA / JUDGMENT

1114136 B.C. Ltd. v. Grewal

2025 BCSC 1638

COURT

Supreme Court of British Columbia

DECIDED

15 July 2025

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2025 BCSC 1638 1114136 B.C. Ltd. v. Grewal IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: 1114136 B.C. Ltd. v. Grewal, 2025 BCSC 1638 Date: 20250715 Docket: S07064 Registry: Abbotsford Between: 1114136 B.C. Ltd. Appellant And Avninder Grewal Respondent Before: The Honourable Mr. Justice Veenstra On appeal from: A decision of the Provincial Court of British Columbia, dated March 4, 2025 (Grewal v. 1114136 B.C. Ltd., Abbotsford Docket No. C-24447). Oral Reasons for Judgment In Chambers Appearing as Representative for the Appellant: L. Siemens Counsel for the Respondent: M.D. Cedrone Place and Date of Hearing: Abbotsford, B.C. July 15, 2025 Place and Date of Judgment: Abbotsford, B.C. July 15, 2025

[1] THE COURT: This is an appeal by 1114136 B.C. Ltd. ("1114136") from a small claims judgment. The respondent to the appeal, Mr. Grewal, applies to dismiss the appeal on a summary basis pursuant to Rule 18-3(7) of the Supreme Court Civil Rules. 1114136 has a late-filed cross-application to extend time pursuant to s. 15 of the Small Claims Act, R.S.B.C. 1996, c. 430 (the "Act").

Background

- [2] The underlying small claims action is a real estate dispute arising from the sale of property by 1114136 to Mr. Grewal. Mr. Grewal claimed at the trial in small claims court that there was a misrepresentation or a failure to disclose information by 1114136.
- [3] The trial occurred over two days in January 2025. Judgment was given on March 4, 2025. The appeal was initiated on March 21, 2025. Most of the appeal documents were served on Mr. Grewal on April 1, 2025.
- [4] Although it had been filed, the notice of hearing of the appeal was not served on the same day as the other appeal documents. The reasons for this were not clear. The principal of 1114136, Mr. Siemens, explained that he filed the notice of hearing because he was required to, but he knew that he did not yet have the trial transcripts and the transcribed reasons for judgment, and therefore, the appeal would not be able to actually go ahead on the date initially provided.

- [5] The notice of hearing provided a hearing date of May 13, 2025. Mr. Grewal's counsel became aware of the notice of hearing on April 8, 2025, and thereafter initiated a series of communications between the parties about hearing dates that continued for several weeks.
- [6] The transcripts of the small claims court trial proceedings were produced on April 28, 2025. The transcript of the reasons for judgment, however, was referred to the provincial court judge for review and editing. The signed transcript of the reasons for judgment was eventually provided to the parties on June 16, 2025.
- [7] The May 13, 2025, hearing date was initially adjourned to June 24, 2025, and has more recently been reset for a single day on September 8, 2025. Legal Context
- [8] The breach of the procedural rules on which Mr. Grewal relies is a failure to serve the notice of hearing on the respondent within the time provided in ss. 11(3) of the Act. Sections 10-11 of the Act state: Date of hearing 10 (1) On filing a notice of appeal, the appellant must apply to a registrar of the Supreme Court to set a date for hearing the appeal.
- (2) The hearing date set by the registrar must be at least 21 days after the date of the application to set the hearing date. Service of notice 11 (1) The appellant must serve the notice of appeal and notice of the hearing date on each person who was a party to the proceeding in which the order under appeal was made, but need not serve notice on a person who is not affected by what the appellant requests of the Supreme Court in the appeal.
- (2) The notice of appeal must be served not later than 7 days after the notice of appeal was filed in the registry of the Supreme Court.
- (3) The notice of hearing must be served not later than 7 days after the date of the application to set the hearing date.
- (4) The appellant must file in the registry of the Supreme Court an affidavit stating when, where, how, by whom and on whom the notice of appeal and notice of the hearing date were served.
- [9] The cases indicate that a breach of the deadlines in s. 11 must be dealt with pursuant to the powers of the court granted by s. 15, which states: Variations of time 15 (1) On application, a judge of the Supreme Court may by order shorten or extend the time for doing anything under this Part.
- (2) A time limit may be extended even if the application for the extension, or the order granting it, is made after the time limit has expired.
- [10] I have been referred to the judgment of Justice Jackson in *Rafieefar v. Ghoroghi*, 2021 BCSC 2196, which summarizes at paras. 7-8 the factors to be considered on an application pursuant to R. 18-3(7) to dismiss the appeal summarily:

- [7] If an appellant fails to file any documents required under PD-21 within the time limits established by PD-21, a respondent may apply for an order disposing of the appeal summarily pursuant to R. 18-3(7) of the SCCR: PD-21, para. 9(a). Rule 18-3 represents an attempt by the court to take control of the appeal procedures at an early stage, and directions contemplated by the Rule, including PD-21, "deal with the orderly preparation of the appeal, the manner in which evidence will be put before the court, and the type of hearing that the court will conduct": *Sorila v. Chan*, 2016 BCCA 108 at para. 8.
- [8] The court's decision to summarily dispose of an appeal is a discretionary decision which is to be made judiciously, taking into account all of the relevant factors, including potential prejudice to the respondents, the purpose of the Small Claims Act, R.S.B.C. 1996, c. 430 [Act], the history of the proceedings including any previous failures to comply with time limits or otherwise act with diligence, and the merits of the appeal. As with any discretionary decision, the overarching consideration is the interests of justice.
- [11] The test is very similar to that applied by the Court of Appeal in dealing with delays in filing a notice of appeal: *Davies v. Canadian Imperial Bank of Commerce* (1987), 15 B.C.L.R. (2d) 256 (C.A.).

Analysis

- [12] The respondent is prejudiced by any delay in finalizing this matter. Apparently, there is \$26,000 held in the small claims court. That is the fruits of the judgment that they seek to recover. But if this matter is heard on September 8, 2025, that is approximately six months after the judgment, which is not unreasonable in a case where there are matters like the ordering of transcripts and other things to happen.
- [13] The purpose of the Act is to allow people who want to have claims resolved in the provincial court in a just, speedy, inexpensive, and simple manner. That purpose continues through the process, including the pursuit of any appeal. The desire to have things resolved in a matter that is speedy and inexpensive, but also just, is something that must be considered.
- [14] In terms of the history of the proceedings, Mr. Grewal raised some general allegations that there were delays in getting this matter resolved. It appears part of that may relate to the multiple different amendments of the small claims court notice of claim. In any event, I do not really have much in the way of specific examples of past delay.
- [15] I was referred to comments about the principal of the appellant, Mr. Siemens, in other cases. I do not know how much I can decide in the context of this case based on what may have been said about an individual in other cases.
- [16] The merits of the appeal is the most challenging factor. This does appear to be a somewhat complex matter involving a recently developed area of properties in which homes could be built; one such lot being sold by the appellant to the respondent; and questions as to what information should have been available to the purchaser through searches of the land title

registry, the covenants appearing on title, as well as zoning information available from the City. Having reviewed the reasons for judgment, and heard the representative of 1114136 explain his reasons for bringing this appeal, I am satisfied that there is an arguable appeal in this case.

[17] Given:

- a) the relatively short timeline from the giving of the judgment to the hearing of the appeal, just over six months later;
- b) the technical nature of the failure of the appellant in this case; and
- c) the overall goal of acting in the interests of justice, I am satisfied that this is an appropriate case in which to extend the appropriate timelines.

[18] In my view, this appeal is one that can be dealt with in an expeditious manner, despite the failure of the appellant to comply with the requirement of immediate service of the notice of hearing.

[19] I direct that the appellant file his statement of argument within a week of today, so that will be by July 22, 2025. I am not going to give a deadline for the respondent to file their statement of argument, but as I understand it, everything else that is required to have this appeal ready for hearing has been done and the hearing date has been set. I am not going to make any of the other orders that were sought in the notice of application.

[20] Although the appellant has been somewhat successful on this application, given the fact that it was the appellant's own breach of s. 11(3) of the Act that gave rise to this application, and given the late filing of the application to extend time, I do not think this is an appropriate situation for the successful party to have costs. I direct that each party bear their own costs of this application. "Veenstra J."

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