

CANADA / JUDGMENT

Canadian Ramgarhia Society v. Panesar

2022 BCSC 751

COURT

Supreme Court of British Columbia

DECIDED

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2022 BCSC 751 Canadian Ramgarhia Society v. Panesar

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Canadian Ramgarhia Society v. Panesar,

2022 BCSC 751

Date: 20220506

Docket: S209404

Registry: Vancouver

Between:

Canadian Ramgarhia Society

Petitioner

And

Manjit Panesar, Amardeep Panesar, Satnam Reehal,

Amarjit Matharu, Jaswant Singh Saggu, Surinder Singh Jabal,

Charanjit Marwaha, Tarsem Virdee and

British Columbia Civil Resolution Tribunal

Respondents

Corrected Judgment: The text of this judgment was corrected at para. 50
on July 8, 2022.

Before: The Honourable Madam Justice Walkem

Reasons for Judgment

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Place and Dates of Hearing:

Vancouver, B.C.

January 31, 2022

February 7, 2022

Place and Date of Judgment:

Vancouver, B.C.

May 6, 2022

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SUMMARY

- [1] The volume of actions brought before this Court and complaints before the Civil Resolution Tribunal ("CRT") about what is at heart, substantially the same concern, appear to reflect an effort by Manjit Panesar, Amardeep Panesar, Amarjit Matharu, Jaswant Singh Saggu, and Satnam Reehal (collectively the "CRT Complainants") to take all the legal shots possible. Though the CRT Complainants were largely self-represented, the number of legal actions, coupled with the discontinuation of some actions before they were heard, and a shift of venue from this Court to the CRT, raises concerns about the reasonableness and intention of these claims. This is especially so, in light of Justice Winteringham's order ("Winteringham Order"), that the discontinuance of the Matharu v. The Canadian Ramgarhia Society, 2020 BCSC 449 [Matharu], matter was a defence to further related proceedings.
- [2] The issue in this application is whether or not it is in the interests of justice for the court to have matters, raised in a series of CRT complaints, come before the court instead of the CRT. I have concluded that, per the terms of Winteringham J.'s order, the dispute between the parties should be heard entirely before this Court.

BACKGROUND

- [3] The petitioner, the Canadian Ramgarhia Society (the "Society") is a Sikh religious society with a temple located in Surrey. The disputes addressed in this application stem from the management of the Society. A contested election and a decision to extend the meal hall of the temple after that election led to various disputes, some before this Court and others before the CRT, about the way the Society is operated. Some of the CRT Complainants were the losing parties in a contested election for the leadership of the Society.
- [4] The elected executive members of the Society, Surinder Singh Jabal (President), Charanjit Marwaha (Secretary), and Tarsem Virdee (Treasurer) (collectively, the "Executive Respondents") have been named personally in some of the complaints.
- [5] The CRT Complainants had filed three CRT disputes against the Society and the Executive Respondents when this petition was first filed. By the time the petition was heard, they had filed three additional CRT complaints.
- [6] The Society claims that it has been "vexed over the last two and a half years by [the CRT Complainants] who have brought a number of repetitive and successive proceedings against the Society and members of its executive". The Society characterizes actions brought in this Court and complaints before the CRT as having been "used for the collateral purpose of repeatedly criticizing the incumbent board and electioneering".

- [7] The Society and Executive Respondents do not argue that issues related to the governance of the Society cannot be challenged. Rather, they argue that the Winteringham Order set out the correct process for the complaints to be addressed. They seek a further order that any new proceedings regarding the same or substantially the same subject matter be brought together, and in the manner set out in that order.
- [8] The Society seeks:
1. An order pursuant to s. 16.2 of the Civil Resolution Tribunal Act, S.B.C., 2012, c. 25 (the "CRT Act") that the British Columbia Civil Resolution Tribunal (the "Tribunal") not adjudicate the following claims:
 - (a) the dispute notice filed by the complainants Manjit Panesar and Satnam Reehal against the respondents Canadian Ramgarhia Society and Tarsem Virdee that was issued by the Tribunal on March 31, 2020 under Dispute Number CS-2020-002481 ("CRT Complaint #1");
 - (b) the dispute notice filed by the complainant Amardeep Panesar against the respondents Canadian Ramgarhia Society, Surinder Jabal and Charanjit Marwaha that was issued by the Tribunal on April 24, 2020 under Dispute Number CS-2020-003200 ("CRT Complaint #2");
 - (c) the dispute notice filed by the complainant Manjit Panesar against the respondents Canadian Ramgarhia Society and Tarsem Virdee that was issued by the Tribunal on May 25, 2020 under Dispute Number CS-2020-004085 ("CRT Complaint #3");
 - (d) the dispute notice filed by the complainants Manjit Panesar and Amarjit Matharu against the respondents Canadian Ramgarhia Society and Surinder Jabal that was issued by the Tribunal on March 5, 2021 under Dispute Number CS-2020-001509 ("CRT Complaint #4");
 - (e) the dispute notice filed by the complainant Manjit Panesar against the respondents Canadian Ramgarhia Society and Jaswant Jandoo that was issued by the Tribunal on March 24, 2021 under Dispute Number CS-2020-002142 ("CRT Complaint #5");
 - (f) the dispute notice filed by the complainant Manjit Panesar against the respondents Canadian Ramgarhia Society and Jaswant Jandoo that was issued by the Tribunal on March 24, 2021 under Dispute Number CS-2020-002383 ("CRT Complaint #6 and collectively with CRT Complaint #1, CRT Complaint #2, CRT Complaint #3, CRT Complaint #4 and CRT Complaint #5, the "CRT Complaints"); and
 - (g) any other dispute notices filed by any or all of the complainants Manjit Panesar, Amardeep Panesar, Satnam Reehal, Amarjit Matharu and Jaswant Singh Saggu (collectively, the "Complainants") in the Tribunal before the hearing of this petition.
 2. A further order pursuant to Rule 13-1(18) of the Supreme Court Civil Rules and the inherent jurisdiction of this Court that, if any or all of Manjit Panesar, Amardeep Panesar, Satnam Reehal, Amarjit Matharu and Jaswant Singh Saggu wish to commence proceedings in this Court concerning the facts and matters pleaded in the CRT Complaints that:

- (a) the Complainants may not commence further proceedings for the same or substantially the same causes of action commenced in Matharu and Panesar v. Canadian Ramgarhia Society, filed in the New Westminster Registry of this Court under file number S-208884 ("Proceeding #4");
 - (b) the Complainants may not commence further proceedings on any other matters and issues raised in the CRT Complaints until the costs awarded to the Society in both Proceeding #4 and Saggu v. The Canadian Ramgarhia Society, filed in the New Westminster Registry of this Court under file number NEW-S-S-211221 ("Proceeding #2") are paid;
 - (c) if the Complainants choose to commence further proceedings in this Court against any or all of the Society, members of its executive committee or its trustees on any other matters and issues raised in the CRT Complaints (the "New Proceeding"):
 - (i) they must raise all such other matters and issues in one proceeding only, being the New Proceeding in this Court; and
 - (ii) they must commence the New Proceeding in the form of a petition proceeding; and
 - (iii) the Complainants will not initiate any further proceedings before the Tribunal, without leave of this Court. Further, if the Complainants wish to commence further proceedings against the Society, members of its executive committee or its trustees, the Complainants must commence the New Proceeding in this Court instead, or if the New Proceeding is extant, seek leave of this Court to amend the New Proceeding instead.
- [9] I note that the Society seeks an order pursuant to 13-1(18) at the beginning of their petition, but later 13-1(19) is cited. It appears to be a typo.
- [10] The CRT Complainants commenced their first action on August 30, 2018. The claim arose from a complaint about the propriety of a special resolution for borrowing funds to construct a meal hall. The Society sought to dismiss the action. On October 10, 2018, the night before the scheduled hearing at 11:46 p.m., the CRT Complainants discontinued the action. On November 2, 2019, the Society and its President were awarded costs of the discontinued action.
- [11] The petitioners then commenced another action on December 6, 2018.
- [12] The Society delivered a formal settlement offer waiving costs on December 14, 2018, if the CRT Complainants dismissed the petition. The offer was to stay open until December 19, 2018. No response was received to that settlement offer. The Society filed a response to the petition on January 18, 2019, disputing the allegations of impropriety. The petition was scheduled to be heard on June 28, 2019.
- [13] On May 24, 2019, the petitioner filed a notice of discontinuance without the consent of the respondent Society or leave of the court. The Society then had the application heard before Justice Winteringham about the terms of the discontinuance.

- [14] In Matharu, the Society sought an order that a discontinuance could not be filed without consent or leave of the court, and that leave to discontinue should only be granted on the condition that the discontinuance is a defence in subsequent proceedings for the same or substantially the same cause of action commenced by the CRT Complainants.
- [15] Justice Winteringham noted that R. 9-8(2) of the Supreme Court Civil Rules requires discontinuance to be filed with consent or leave by the court. The Society argued that under R. 22-7 (Non-compliance with the rules) the court can make an order that will further the object of the rules and under R. 13-1(19) the court can make an order on terms and conditions. Justice Winteringham ordered a term restricting the petitioner's right to recommence the proceedings, based on the earlier action, the status of the meal hall expansion project (the issue in question), and the persistent animosity between the parties evident in their affidavits: at paras. 15, 23.
- [16] Justice Winteringham ordered that:
- a) The petitioners, Amarjit Singh Matharu and Manjit Singh Panesar, are granted leave to file the notice of discontinuance previously filed May 24, 2019;
 - b) Subject to further order of the court, the notice of discontinuance is a defence to further proceedings for the same or substantially the same cause of action commenced by Amarjit Singh Matharu, Manjit Singh Panesar or both against the respondent, the Canadian Ramgarhia Society; and
 - c) The petitioners pay ordinary costs up to December 14, 2018 and double costs from December 14, 2018 to the date of this order.

[Underline emphasis added.]

CRT Complaints

- [17] Both, while the Society pursued the order seeking terms be imposed on the discontinuance, and after Justice Winteringham's order, the Complainants pursued a set of additional complaints through the CRT process. These include:

- CRT Dispute Number CS-2020-002481 - March 31, 2020 (Manjit Panesar and Amarjit Matharu claiming against Surinder Jabal and the Society) ("CRT #1"). This was a claim of irregularity under s. 105 of the Societies Act, S.B.C. 2015, c. 18 [Societies Act] regarding quorum at a meeting. The Society raised the defences that the matter was frivolous, vexatious, and abusive, barred by res judicata, barred as abuse of process by re-litigation, barred by abuse of process by collateral attack of the Winteringham Order, and that the CRT lacks jurisdiction to hear the claims under s. 130(1)(c) of the CRT Act.
- CRT Dispute Number CS-2020-003200 - April 24, 2020 (Amarjit Matharu claiming against Surinder Jabal, Charanjit Marwaha, and the Society) ("CRT #2"). This claim concerned a claim of irregularity under s. 105 of the Societies Act. The allegation was that the membership enrollment

process prior to the December 9, 2018 election was irregular, resolutions passed at the SGM were falsely entered and should be invalidated, and that five arbitrators should be appointed. The Society responded that the claim was frivolous, vexatious, and abusive and that it is statute-barred.

- CRT Dispute Number CS-2020-004085 - May 25, 2020 (Manjit Panesar claiming against Tarsem Virdee and the Society) ("CRT #3"). This was a claim of irregularity under s. 105 of the Societies Act and a claim of unfulfilled document requests under s. 24-27 of the Societies Act. The Society responded that they were unaware of the records requests until the complaint was filed, when they checked a dormant email account that the records request had been sent to and found the requests. The Society argued that the complaint is now moot (as the documents were provided) and that the complaint is frivolous, vexatious, and abusive.

- CRT Dispute Number CS-2021-001509 - March 5, 2021 (Manjit Panesar and Amarjit Matharu claiming against Surinder Jabal and the Society) ("CRT #4"). This complaint seeks an order that Mr. Jabal has breached the Society's Constitution and Bylaws, and that he be required to comply with them and refrain from such actions in the future for dispute-related fees. This complaint concerns resolutions that are allegedly unjust, shocking, non-cooperative, and discriminatory and contrary to the Society constitution (art. II) and in violation of the bylaws (ch. 4, s. 1). The complaint stems from the use of the stage at the Society's temple. In response, the Society requested the CRT not adjudicate these claims and that all proceedings be brought in this Court.

- CRT Dispute Number CS-2021-002142 - March 24, 2021 (Manjit Panesar claiming against Jaswant Jandoo and the Society) ("CRT #5") concerns an application seeking an order that the Society breached the bylaws and s. 20 of the Societies Act, that they must comply with these, and costs. The claim is that the Society failed to provide specific society records requested by the applicant pursuant to ch. 7 s. 3(4)(5) of the bylaws and ss. 20-24 of the Societies Act. The Society argued that they have either provided these records or where they have not, those records do not exist.

- CRT Dispute Number CS-2021-002383 - March 24, 2021 (Manjit Panesar claiming against Jaswant Jandoo and the Society) ("CRT #6") seeks an order that a copy of a consent resolution of the directors, each consent on that resolution, and a copy of a consent letter issued by BC Registry Services be disclosed. The allegation is that the Society failed to provide the consent resolution of directors as requested, and failed to provide a consent letter dated January 17, 2021, from the trustees regarding the arrangement of the Society due to COVID-19. They further allege that the executive directors are dominated by nepotism, resulting in bias decision-making and unfair treatment to the members, and that the minority group's concerns are constantly ignored by the directors.

POSITIONS OF THE PARTIES

[18] The Society and Executive Respondents argue that this is a dispute where different claims have been repeatedly raised and then abandoned at the last minute before this Court. A series of complaints to the CRT have recently been added to the total landscape of legal

disputes between the parties. There are significant costs incurred to the Society of having to respond to each of these separate legal proceedings. Costs incurred include not only legal fees, but the effort the Society and Executive Respondents (a voluntary body) must expend to respond to each separate claim.

- [19] The Executive Respondents are separately represented (as required by the bylaws of the Society). The Executive Respondents are being sued in their personal capacity, and argue that the CRT can only deal with matters relating to the Society, not to remedies relating to them personally. Accordingly, the Executive Respondents argue that there are remedies and defences that are not available to them as executive members, including the argument that they acted to the best of their abilities and with good intentions through the CRT process.
- [20] The CRT can only deal with issues under Division 6 of Part 10 of the Societies Act per s. 2.1 of the CRT Act. The Executive Respondents point out that other Parts of the Societies Act are engaged here. The Society argues that the s. 105 irregularity issue is outside the jurisdiction of the CRT. Section 105 is under Part 8 of the Societies Act, and, per s. 130(1)(c) of Division 6 of the CRT Act, the CRT explicitly does not have jurisdiction to decide anything dealt with under Part 8 of the Societies Act. The Society argues that, as the applicant cannot seek a remedy for an irregularity under s. 105, this should be addressed by the court per 16.2(a) of the CRT Act.
- [21] Counsel for the Society points to the difficulties that they had in filing materials with the CRT. They point to the fact that they are asked to respond without the particulars of the allegations, and that there is a character limit to the length of reply, limiting their reply on complex legal points to about two pages in total. They say that the forum does not provide an adequate solution for the legal problems between the parties.
- [22] The CRT Complainants argue that the Court should show deference to the ability of the CRT to determine their own process. This includes deciding whether or not there is a jurisdictional issue which would prevent them from deciding certain matters. They argue that the process of the CRT, in the phase of determining whether or not they can proceed, should not be interfered with. The CRT Complainants indicated that the existence of the Winteringham Order and how it should impact the CRT should be addressed by the CRT. In essence, the CRT Complainants argue that what this application seeks is a judicial review in advance of a decision being made by the CRT. Further, they argue that issues of vexatiousness can be addressed under s. 35 of the CRT Act, and so there is no need to deal with them otherwise.
- [23] The CRT did not participate in this hearing. The Society argued that the CRT would have participated if they opposed the orders sought. The CRT Complainants argued it would be inappropriate to read acquiescence from the lack of participation. I agree, and I do not ascribe a position, either way, to the CRT in this proceeding.

DISCUSSION

Law

[24] Overall, many of the CRT Complaints relate to the application of bylaws, and would fall within the jurisdiction of the CRT per s. 129(1)(a) of the CRT Act and could only be excluded from CRT jurisdiction pursuant to s. 16.2(b) and 16.3 of the CRT Act.

[25] Relevant portions of the CRT Act include the following:

General authority of tribunal -- claim categories

2.1 The tribunal may, in accordance with this Act, adjudicate the following claim categories:

(e) claims in relation to the Societies Act, under Division 6 [Society Claims] of Part 10;

Court may order that tribunal not adjudicate claim

16.2(1) Subject to subsection (2), the court may order that the tribunal not adjudicate a claim that is or purports to be in one of the claim categories if

- (a) the tribunal does not have jurisdiction to adjudicate the claim, or
 - (b) it is not in the interests of justice and fairness for the tribunal to adjudicate the claim.
- (2) Subsection (1)(b) does not apply if the tribunal has exclusive jurisdiction in respect of the claim.

Considerations in the interest of justice and fairness

16.3(1) For the purposes of sections 16.1(1) and 16.2(1), when deciding whether it is in the interests of justice and fairness for the tribunal to adjudicate a claim, the court may consider the following:

- (a) whether an issue raised by the claim or dispute is of such importance that the claim or dispute would benefit from being adjudicated by that court to establish a precedent;
 - (c) whether an issue raised by the claim or dispute is sufficiently complex to benefit from being adjudicated by that court;
 - (d) whether all of the parties to the claim or dispute agree that the claim or dispute should not be adjudicated by the tribunal;
 - (e) whether the claim or dispute should be heard together with a claim or dispute currently before that court;
 - (f) whether the use of electronic communication tools in the adjudication process of the tribunal would be unfair to a party in a way that cannot be accommodated by the tribunal.
- (2) For the purposes of section 16.1(2), when deciding whether it is in the interests of justice and fairness for the tribunal to make the determination referred to in that subsection, the court may consider the principle of proportionality.

[26] The CRT was created as an informal dispute resolution forum to provide an alternative to the court process. The process was designed to be accessible for lay litigants to represent themselves, with the goal of reaching speedier resolutions between the parties with less technicality: CRT Act, s. 18. Their mandate is as follows:

Civil Resolution Tribunal mandate and role

2(2) The mandate of the tribunal is to provide dispute resolution services in relation to matters that are within its authority, in a manner that

- (a) is accessible, speedy, economical, informal and flexible,
- (b) applies principles of law and fairness, and recognizes any relationships between parties to a dispute that will likely continue after the tribunal proceeding is concluded,
- (c) uses electronic communication tools to facilitate resolution of disputes brought to the tribunal, and
- (d) accommodates, so far as the tribunal considers reasonably practicable, the diversity of circumstances of the persons using the services of the tribunal.

[27] From its 2020/2021 Annual Report, the CRT outlines the difference in its approach to resolving disputes from court-based legal processes as follows:

The CRT encourages a collaborative, problem-solving approach to dispute resolution, rather than the traditional courtroom model, by providing timely access to legal information, self-help tools, and dispute resolution services to help resolve disputes collaboratively as early as possible. If parties are unable to resolve their dispute collaboratively, a CRT tribunal member makes a binding decision, enforceable as a court order".

[From the CRT report for 2020-2021 <https://civilresolutionbc.ca/wp-content/uploads/2021/11/CRT-Annual-Report-2020-2021.pdf>.]

[28] In *Slosar v. The Owners, Strata Plan KAS 2846*, 2021 BCSC 1174 at para. 25, the court observed the following of the CRT process: "The idea is to encourage the resolution of disputes by agreement first. If the parties cannot agree, the CRT adjudicates the dispute by conducting online adversarial hearings and issuing decisions. Section 18 provides that the dispute resolution mechanism should be informal and non-technical". See also: *The Owners, Strata Plan NW 2575 v. Booth*, 2020 BCCA 153 at para. 2.

[29] Sections 16.2 and 16.3 of the CRT Act provide that the court can assume jurisdiction over matters before the CRT in certain circumstances. Section 16.2 of the CRT Act sets out that the court may order the CRT to not adjudicate a claim if the CRT does not have jurisdiction to adjudicate the claim (s. 16.2 (1)(a)) or if it is in the interests of justice and fairness for the court to adjudicate the claim (s. 16.2(b)). Section 16.2(2) clarifies that s. 16.2(1)(b) does not apply when the CRT has exclusive jurisdiction over a claim. The CRT Act sets out explicitly claims that are in the exclusive jurisdiction of the CRT and claims that are not in their

jurisdiction.

[30] Section 16.3 of the CRT Act sets out factors for the court to consider in deciding whether it is not in the interests of justice and fairness for the tribunal to adjudicate a claim. The factors to be considered include:

16.3 (1) For the purposes of sections 16.1 (1) and 16.2 (1), when deciding whether it is in the interests of justice and fairness for the tribunal to adjudicate a claim, the court may consider the following:

- (a) whether an issue raised by the claim or dispute is of such importance that the claim or dispute would benefit from being adjudicated by that court to establish a precedent;
 - (b) whether an issue raised by the claim or dispute relates to a constitutional question or the Human Rights Code;
 - (c) whether an issue raised by the claim or dispute is sufficiently complex to benefit from being adjudicated by that court;
 - (d) whether all of the parties to the claim or dispute agree that the claim or dispute should not be adjudicated by the tribunal;
 - (e) whether the claim or dispute should be heard together with a claim or dispute currently before that court;
 - (f) whether the use of electronic communication tools in the adjudication process of the tribunal would be unfair to a party in a way that cannot be accommodated by the tribunal.
- (2) For the purposes of section 16.1 (2), when deciding whether it is in the interests of justice and fairness for the tribunal to make the determination referred to in that subsection, the court may consider the principle of proportionality.

[31] This list of factors is neither mandatory nor exhaustive: *The Owners, Strata Plan LMS205 v. 0806933 BC Ltd.*, 2022 BCSC 91 at para. 86. Per section 16.3(2), the court can also consider the principle of proportionality.

[32] Cases where the court assumed jurisdiction from the CRT thus far appear limited to those where the parties consented to the assumption of jurisdiction.

[33] In *Yas v. Pope*, 2018 BCSC 282, the petitioners argued that the electronic hearing would be inadequate for their case, as they would not have the procedural guarantees and safeguards of a traditional trial. They argued it would be impossible to adequately test the evidence and resolve the credibility issues in the absence of the ability to cross-examine: at para. 34. Mr. Justice Baird rejected the petitioners' claims as illusory, and noted that issues of credibility are routinely resolved on written records in other tribunals. Further, the CRT Act permits a *vive voce* hearing if required. Based on the petitioners' evidence and arguments, and the fact that they had not even requested an oral hearing before coming to the court, Justice Baird found that no injustice would result from the CRT deciding the evidentiary issues: at paras.

35-37.

- [34] Justice Baird rejected the argument that the claim advanced was too complex for the CRT, finding that the noise complaint was not complex, and that the large awards sought by the parties did not make it a complex matter: at para. 46. The addition of lawyers on both sides also did not make the matter "more complex". The petitioners also pointed to delay as a reason the CRT could not handle the claims before them. Justice Baird rejected this argument, stating that the CRT had done nothing to compromise its own objectives of quick, cheap, and collaborative resolution, and that much of the delay arose before the claims were before the CRT: at paras. 47-49.
- [35] In *Downing v. Strata Plan VR2356*, 2019 BCSC 1745, Mr. Justice Crerar addressed a jurisdiction claim in the context of a strata dispute, an area of expertise for the CRT. Referencing s. 16.1 of the CRT Act, the petitioner argued that the Court is only required to dismiss proceedings in favour of resolution of the CRT if "all matters" are within the jurisdiction of the court. While the petitioner's claims for trespass and mental distress were usually outside the CRT's typical jurisdiction, Justice Crerar found that these claims stemmed from issues that were within the CRT's expertise: at paras. 39-40.
- [36] In response to the petitioner's claim that there would be precedential value to the court deciding the issue, Justice Crerar pointed to the publicly available reasons of the CRT that would provide persuasive authority and guidance for future disputes. It was alleged by the petitioner that trespass is akin to an assault on personal dignity and safety, analogous to a constitutional or Human Rights Code claim. The Court rejected this, finding that entry into a strata unit was clearly within the CRT's expertise. As the court did in *Yas v. Pope*, Justice Crerar rejected the petitioner's arguments that the CRT could not handle the claim due to complexity based on the size of the award claimed, complex evidence, and the electronic format. Finally, the court noted that having the court assume jurisdiction over a CRT matter would be unprecedented, as the only existing decision at the time was a case where the parties consented to the court assuming jurisdiction: at paras. 42, 44-50.
- [37] The Owners, Strata Plan VR 855 v. Shawn Oaks Holdings Ltd., 2018 BCSC 1162 is an example where the court found it would be in the interests of justice for the court to decide the issues. In this case, both parties consented to having the petition heard by the court, arguing that their multi-party dispute was beyond the scope of the CRT. Justice Norell found that the claim was not a typical CRT dispute, where the CRT is being asked to mediate, and rule if necessary, on a dispute. As such, she found that it would not be in the interests of justice and fairness for the CRT to resolve the dispute: at para. 56.
- [38] *Kunzler v. The Owners, Strata Plan EP S 1433*, 2020 BCSC 576 at para. 56, is another example where the Court assumed jurisdiction of the claims when the parties consented. Of note in both *Kunzler v. The Owners, Strata Plan EPS 1433* and *The Owners, Strata Plan VR 855 v. Shawn Oaks Holdings Ltd.* is that the court did not assume jurisdiction over a matter before the CRT just because the parties consented. Rather, both decisions pointed to other factors,

such as complexity, when deciding the court should assume jurisdiction. Consent of the parties alone may not be enough for the court to assume jurisdiction.

Analysis

[39] While each separate CRT Complaint may not be complex, in the circumstances of this case, it is appropriate to consider the CRT Complaints as part and parcel of the other complaints the CRT Complainants have brought, both at the CRT and before this Court.

[40] The issue in the original case arose when the petitioner challenged the propriety of the special resolution about the meal hall expansion. Subsequent CRT complaints addressed issues related to governance and decision-making of the Society.

[41] There are also a number of actions started in this Court:

- An action was commenced on August 30, 2018, regarding the propriety of the special resolution passing the expansion of the meal hall. This was one of the actions forming the basis for the Winteringham Order. This action was discontinued on October 10, 2018.
- A subsequent action, NW S-208884, about the expansion of the meal hall was commenced on December 6, 2018. This action resulted in the Matharu decision.
- An action, NW S-S-211221, was commenced on February 14, 2019 alleging the Society illegally terminated Jaswant Saggu's membership. The action was a re-litigation of a claim commenced 17 years prior. This action was dismissed on June 12, 2019, and the Society was awarded double costs on August 26, 2019.
- The Society filed an interpleading petition on August 1, 2019 to pay \$16,200.00 into court that had been deposited in the Society's account by the CRT Complainants. The monies were allegedly for membership fees, but the Society was unable to determine who paid the funds so they could be returned. The Court ordered the monies be paid into court on October 17, 2019.

[42] Rule 9-8(4) states:

- (4) Subject to subrule (2), a person wholly discontinuing an action against a party or wholly withdrawing his or her response to civil claim filed in response to a notice of civil claim of a party must pay the costs of that party to the date of service of the notice of discontinuance or the notice of withdrawal, as the case may be, and if a plaintiff who is liable for costs under this subrule subsequently brings a proceeding for the same or substantially the same claim before paying those costs, the court may order the proceeding to be stayed until the costs are paid.

[43] In the context of Rule 9-8(4), "substantially the same" seeks to avoid subsequent proceedings for the same thing, as this would amount to an abuse of process.

- [44] Mr. Justice G.C. Weatherill in *Drover v. BCE Inc.*, 2013 BCSC 1341 at para. 41, opined that "It is well established that it is an abuse of process for the same plaintiffs to bring multiple proceedings against the same defendant in relation to the same subject matter". Citing: *Lacharity v. University of Victoria Students' Society*, 2012 BCSC 1819 at para. 24; *Duzan v. Glaxosmithkline, Inc.*, 2011 SKQB 118 at para. 36; *Englund v. Pfizer Canada Inc.*, 2007 SKCA 62 at paras. 34 to 36.
- [45] That is the case here, these are substantially the same litigants who have brought a multitude of legal actions in both this Court and now through the CRT. The substance of the proceedings revolves around disputes about how the Society is governed. In some cases, the CRT Complainants sought to put forward different complainants (for example, a father and son, or to revive a complaint that had been apparently settled over a decade in the past). Despite the different complaints or proceedings being brought under different names, the plaintiffs/complainants are all related.
- [46] Assessed overall, and looking beneath the surface of these complaints, there are multiple actions and complaints being brought in light of a larger cause, which is a dispute about how the Society is governed and run. This is reflected in complaints about how a meal hall was approved and built, how time in the facility is allotted, and a myriad of other technical complaints about the operation of the Society, and its constitution and bylaws. Overall, it is clear that these complaints all relate to the fact that, as a current minority within the Society, the CRT Complainants do not agree with how it is run. This is the substance of their complaints.

CONCLUSION

- [47] Given the protracted and complex nature of this dispute, not only on the face of each separate CRT Complaint, but especially when those complaints are considered in further light of the totality of legal actions about substantially the same subject matter brought before this Court, I find that it is in the interests of fairness and justice that the order sought by the Society and Executive Complainants in Part I of their petition should be granted.
- [48] Based on a consideration of the factors in s. 16.3 of the CRT Act, I find this matter should properly be heard before this Court. To some extent, this situation was already addressed through the Winteringham Order. To allow this proliferation of complaints in different legal fora in light of an existing order of this court, would be to undermine the integrity of the court process.
- [49] Justice would not be served to allow proceedings to be started, then discontinued, revived under a different style of cause, discontinued, then revived in the forum of the CRT. Some (though not all) the complaints against the Society and Executive Respondents do not fall under Part 6 of the Societies Act and thus are outside of the jurisdiction of the CRT. However, as I have found above, considered as a whole, these complaints are brought by substantially the same applicants, and relate to substantially the same subject matter. To allow these

complaints to go ahead would distort the goals of speedy, economical and affordable process that the CRT Act envisions and it would allow forum-shopping with the goal of circumventing an existing order of this Court.

[50] All counsel indicated consent to an order regarding adding Jaswant Jandoo as a respondent to the pleadings.

[51] The Society applied for an order under Rule 13-1(8) of the inherent jurisdiction of this Court, setting conditions, should the CRT Complainants wish to commence other proceedings in this Court about the same subject matter.

[52] I do not grant this order, as the Winteringham order (in Matharu, at para. 37(b)) already restricted the ability to restart the subject-matter proceeding based on these terms:

Subject to further order of the court, the notice of discontinuance is a defence to further proceedings for the same or substantially the same cause of action commenced by Amarjit Singh Matharu, Manjit Singh Panesar or both against the respondent, the Canadian Ramgarhia Society .

and in those circumstances, the matter is already addressed.

[53] The Society and Executive Respondents are entitled to their costs for this petition.

"A. Walkem J."

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