

CANADA / JUDGMENT

Howell v. Stockhorst

2025 BCSC 2628

COURT

Supreme Court of British Columbia

DECIDED

9 May 2025

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2025 BCSC 2628 Howell v. Stockhorst IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Howell v. Stockhorst, 2025 BCSC 2628 Date: 20250509 Docket: E66605 Registry: New Westminster Between: Paula Jessica Howell Claimant And James Carter Stockhorst Respondent Before: The Honourable Mr. Justice Brongers Oral Reasons for Judgment In Chambers Counsel for the Claimant: J. Diakow Counsel for the Respondent: D. Exel Place and Date of Hearing: New Westminster, B.C. May 9, 2025 Place and Date of Judgment: New Westminster, B.C. May 9, 2025

- [1] THE COURT: Before the Court are cross-applications regarding which party should have conduct of the sale of family property which has already been ordered sold by the Court further to an order issued by Justice Tammen on February 12, 2025. The property in question is a condominium in Surrey, British Columbia.
- [2] The claimant, Ms. Howell, is the sole party whose name is on title to the property. She wants to have sole conduct of the sale, and seeks an order to that effect. The respondent, Mr. Stockhorst, seeks an order providing that both parties, Ms. Howell and Mr. Stockhorst, have joint conduct of the sale. While Ms. Howell is on title and Mr. Stockhorst is not, the property was acquired while the parties were married and there is no suggestion that the condominium is excluded property. The matter of how to divide the parties' interests in this family property, or the proceeds thereof, will be the subject of a trial scheduled for January of 2026, in eight months' time.
- [3] Counsel for the parties helpfully directed me to Etemadi v. Maali, 2021 BCCA 298. It sets out the legal principles that apply to applications for conduct of sale orders in family litigation. It effectively notes that there is no single test to be applied, but the factors to be considered include: the willingness of a party to facilitate sale, the inability of the parties to agree on routine aspects of sale, and the inability of the parties to cooperate. It also notes the trial courts frequently make orders for sale of property jointly held by spouses in acrimonious family disputes. Usually, courts grant orders for joint conduct of sale because both parties have a profound interest in the terms of any sale. This is so even where there is evidence that the parties have difficulty in cooperating. It was also noted that:

- [106] [] It is usual to give spouses in family litigation the opportunity to work together, through an order for joint conduct of sale, and only if they are unable to do so, to grant sole conduct to one party on specific terms. []
- [4] In my view, this is a case in which there should be joint conduct of the sale. I find that it would be unjust to deny either party a say in such issues as the listing agent, price, other terms and conditions, or in considering whether to seek court approval for any offers ultimately received. The parties should have an opportunity to work together, through an order for joint conduct of sale. If this proves not to be possible, then they will be free to return to court to apply for an order for sole conduct of sale. This should provide them with an incentive to cooperate to effect a mutually acceptable sale of the property.
- [5] Mr. Stockhorst has also asked for a number of ancillary orders relating to the specifics of how the sale of the property should be conducted. They deal with such matters as selection of the realtor, the listing price, and acceptance of offers. They are opposed by Ms. Howell.
- [6] Since I am ordering that conduct of the sale be done jointly, I am not going to make such orders over the objection of Ms. Howell. To do so would be contrary to the spirit of ordering joint conduct of the sale. That said, the parties will need to discuss these questions jointly and be reasonable in their positions so that agreement can be reached. If this proves not to be possible, then, as I said earlier, both parties will be free to come back to the court to request directions, or, if a party has been unreasonably non-co-operative, an order for sole conduct of the sale.
- [7] Mr. Stockhorst has also asked for an order relating to where the proceeds of sale should be paid. He takes the position that they should be paid in trust to his counsel. Ms. Howell takes the position that they should be paid in trust to her counsel. Given this unfortunate impasse, I was considering ordering that the proceeds be paid into court instead. However, counsel for Mr. Stockhorst advises that Justice Tammen may have already issued a specific order regarding how the proceeds of sale are to be dealt with on February 12, 2025, but that this order was not properly reflected in the formal order that was ultimately drafted when it was settled. He is apparently contemplating an application to have this issue resolved pursuant to the "slip rule". In these circumstances, where Justice Tammen may have already ruled on this issue, I decline to make my own order in relation to it.
- [8] In sum, the orders issued today are as follows:
1. The claimant and the respondent will have joint conduct of sale of the Surrey property, as requested by the respondent, Mr. Stockhorst, at paragraph 2 of his notice of application dated October 29, 2024.
 2. The parties are at liberty to apply for further directions relating to the sale of the Surrey property if need be, as requested by the respondent, Mr. Stockhorst, at paragraph 6 of his notice of application dated October 29, 2024.

3. The relief sought by the respondent, Mr. Stockhorst, at paragraphs 3, 4, and 5 of his notice of application dated October 29, 2024, is denied.
 4. The claimant and the respondent shall exchange updated F8s by June 25, 2025. This is further to the relief sought by the claimant, Ms. Howell, at paragraph 8 of her notice of application dated April 1, 2025, modified somewhat to provide that the obligation is mutual.
 5. The relief sought by the claimant, Ms. Howell, at paragraph 6 of her notice of application dated April 1, 2025, is denied.
- [9] To the extent that the requests for other relief sought by the parties in their respective notices of application have not already been disposed of, the applications for such relief are adjourned generally.
- [10] And, finally, costs of these applications are in the cause "Brongers J."

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