

CANADA / JUDGMENT

Khehra v. 1291454 B.C. Ltd.

2025 BCSC 2697

COURT

Supreme Court of British Columbia

DECIDED

27 November 2025

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2025 BCSC 2697 Khehra v. 1291454 B.C. Ltd.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Khehra v. 1291454 B.C. Ltd.,

2025 BCSC 2697

Date: 20251127

Docket: H257116

Registry: New Westminster

Between:

Narinder Singh Khehra, Joginder Hira, Marwaha Developments &

Investors Ltd. and Babak Investment Ltd.

Petitioners

And

1291454 B.C. Ltd., Indo-China Investment Group Ltd., Kaniappa Reddy,

Zhenxiang Zhou, Barinderjit Singh Dhillon, Sukhwant Singh Jaswal,

Rupinderjeet Singh Bajwa, Maninderjit Singh Kahlon, Zhenxiang Zhou,

Yaqin Liao, Jina Sheng Zhao, Rong Xue, Xuan Yuan, Huishi Li, ABLC

Capital Corporation, Bill's Trucking Ltd., The Crown in Right of

British Columbia and

All Tenants and Occupiers of the Subject Lands and Premises

Respondents

Before: Associate Judge Hughes

Oral Reasons for Judgment

In Chambers

Counsel for the Petitioners:

J. Singh

Counsel for the Respondents 1291454 B.C. Ltd. and Kaniappa Reddy:

A. Dhinsa

Counsel for the Respondent Zhenxiang Zhou

J.D. West

Place and Date of Hearing:

New Westminster, B.C.

November 21, 2025

Place and Date of Judgment:

New Westminster, B.C.

November 27, 2025

- [1] THE COURT: This is a foreclosure proceeding related to property located at 7640 Francis Road, Richmond, BC (the "Property"). 1291454 B.C. Ltd. ("454") is the registered owner of the Property. The petitioners hold the second mortgage, which was registered on December 20, 2021 (the "Mortgage"). The first mortgage is also in foreclosure with an order nisi having already been granted and the pending application for an order absolute.
- [2] The respondent, Zhenxiang Zhou ("Mr. Zhou"), is either a guarantor or a covenantor on the Mortgage, as are Indo-China Investment Group Ltd. ("Indo-China") and Kaniappa Reddy ("Mr. Reddy").
- [3] The Mortgage was for a nine-month term, with the balance due date being September 17, 2022. The petitioners' evidence is that the Mortgage has been in default since December 17, 2022.
- [4] The petitioners commenced this proceeding by petition filed on March 14, 2025, approximately 30 months after the end of the Mortgage term and 27 months after the date of default. Mr. Zhou advances a limitation defence, saying the claim was commenced more than two years after the cause of action arose and is therefore statute barred.

- [5] Section 6 of the Limitation Act, S.B.C. 2012, c. 13 [Act], provides that a basic limitation period for commencing a court proceeding is two years after the day on which the claim is discovered.
- [6] In *Leatherman v. 0969708 B.C. Ltd.*, 2018 BCCA 33, Justice Savage discussed the dual nature of a mortgage and observed that most mortgages include both a covenant to pay and security for debt. These different obligations under a mortgage may give rise to different limitation periods.
- [7] The right to enforce security is subject to the discoverability rule codified in s. 15 of the Act, which provides that a claim to realize or redeem security is discovered on the first day that the right to enforce the security arises. Where the covenant to pay is a demand obligation, s. 14 of the Act applies, and the limitation period runs from the first day there is a failure to pay after demand.
- [8] The Mortgage is not a demand mortgage, as the debt obligation is payable on a specific date.
- [9] Where a mortgage provides a specific date on which the balance is due to be paid in full, absent an earlier default, the right to enforce security arises and the limitation period runs from the balance due date. Here, the balance due date of the Mortgage was September 17, 2022, and the two-year limitation period for commencing the claim and debt expired on September 18, 2024. Alternatively, if the Mortgage has been in default since December 17, 2022, as the petitioners allege, then the limitation period expired on or about December 17, 2024.
- [10] In either case, the limitation period to commence a claim against Mr. Zhou expired months before the petition was filed on March 14, 2025, unless the petitioners can establish that there was an acknowledgement of the debt which would trigger the application of s. 24 of the Act.
- [11] Section 24(6) requires that any such acknowledgement must be in writing, signed, and made by the person making the acknowledgement or the person's agent and made to the person with the claim.
- [12] *Forjay Management Ltd. v. 0981478 B.C. Ltd.*, 2020 BCSC 637, stands for the proposition that a bare acknowledgement of the existence of a cause of action is not sufficient. Rather, there must be an admission of some liability and that intention must be evident on the face of the document.
- [13] As an acknowledgement of liability, the petitioners rely on a letter dated April 26, 2024, from Bridgehouse Law LLP, expressly in its capacity as counsel for 454, requesting a payout statement from the petitioners in respect of the Mortgage. That payout request letter was sent just 16 days after the date of the petitioners' demand letter. It specifically referenced the petitioners' registered charges being the Mortgage and assignment of rents and said:

It is anticipated that the charges registered in your favour will be repaid in full after April 30th, 2024.

That letter sought:

a payout statement setting out the principal balance, plus accrued interest due and owing on the charges, together with the amount required to fully satisfy any other monies secured by the charges...

- [14] I am satisfied that the payout request letter sent by counsel for 454 constituted an acknowledgement of both the debt owing to the petitioners by 454 and the right of the petitioners to take action under the security aspect of the Mortgage.
- [15] However, whether the payout request is an admission of liability on the part of the debtor 454 is of no consequence with respect to Mr. Zhou's obligations.
- [16] As noted by Justice G.P. Weatherill in *Continental Steel Ltd. v. CTL Steel Ltd.*, 2015 BCSC 1672 (aff'd 2018 BCCA 82) at para. 151, a confirmation by the debtor can extend the limitation period for the cause of action on the debt. However, a confirmation generally only applies to the party making it, i.e., the debtor and not the guarantor. An agency relationship between guarantor and debtor could be sufficient to cause the confirmation resetting the limitation period to apply to the guarantor as well, but such a relationship is rare. Even if a guarantor is the director of the debtor company, it will not necessarily be sufficient.
- [17] In the case at bar, the payout request was not made by Mr. Zhou or anyone acting as agent on his behalf. Accordingly, it does not operate to reset the limitation period with respect to the claim against him.
- [18] Petitioners' counsel spent much time trying to establish that Mr. Zhou was a covenantor, rather than a guarantor. As discussed in *Kalsi v. Achary*, 2012 BCSC 361 at para. 27, there is a fundamental difference between being a covenantor and a guarantor. A guarantor's liability is secondary to that of the party whose obligation is being guaranteed. A covenantor's liability is primary. It is therefore necessary to spell out the obligation clearly in an agreement. The responsibility for doing so lies with the lender.
- [19] The effort to assert Mr. Zhou's status as a covenantor appears to have been a last-ditch argument to counter the limitation defence. The petition does not plead any material facts with respect to the status of the various petition respondents, aside from pleading that 454, identified in the petition as "1291", is the registered owner of the Property and that it granted the Mortgage to the petitioners.
- [20] In particular, there are no material facts pleaded with respect to Mr. Zhou's status as either a guarantor or a covenantor. The only reference is in the "Orders Sought" section, where the petitioners seek a declaration that the Mortgage is in default and specifically seek such with respect to Indo-China, Mr. Reddy, and Mr. Zhou as guarantors.

[21] The demand letter dated April 20, 2024, referenced in the petition and in the affidavit of Narinder Singh Khehra, sworn on March 7, 2025 and filed in support of the petition, also refers to those same three respondents as guarantors.

The acknowledgement of receipt of standard mortgage terms, exhibited to the third affidavit of Mr. Khehra, sworn October 6, 2025, was signed by Indo-China, Mr. Reddy, and Mr. Zhou, explicitly as guarantors.

The only reference to Mr. Zhou and the others perhaps being covenantors -- and the reference is ambiguous at best -- is on the Form B mortgage where they are listed as "Guarantor(s) or Covenantor(s)".

[22] On the evidence before me, and considering this court's decision in Kalsi, I cannot conclude that they are anything but guarantors.

[23] As in Kalsi, the petitioners' alternative argument, raised only in reply submissions, is that Mr. Zhou and the others provided a "bare" guarantee. I cannot accept that submission for the same reasons as set out in Kalsi.

[24] Accordingly, I find that the two-year limitation period with respect to the claim against Mr. Zhou expired prior to the filing of the petition and therefore that claim is statute barred. The petitioner's claim as against Mr. Zhou is dismissed with costs.

[25] Mr. Reddy is in the same position as Mr. Zhou, and the claim against him is also dismissed with costs.

[26] Mr. Singh, given that I have dismissed the claims as against Mr. Zhou and Mr. Reddy, can you please clarify exactly what orders you are seeking?

[27] CNSL J. SINGH: Your Honour, we will be seeking an order nisi against the numbered company.

[28] THE COURT: Yes. All right. So the order nisi --

[29] CNSL J. SINGH: For the property, the first term is already seeking order absolute.

[30] THE COURT: Yes.

[31] CNSL J. SINGH: So the only property -- that will be order nisi against the company.

[32] THE COURT: Okay. And the order nisi, the amounts that you gave me last Friday were that the balance owing as at November 21, 2025, was \$4,292,484.80; is that correct?

[33] CNSL J. SINGH: That is what I probably gave to you.

[34] THE COURT: Okay. And the per diem was \$1,942.80?

[35] CNSL J. SINGH: Yes.

(SUBMISSIONS RE REDEMPTION PERIOD)

- [36] THE COURT: I will grant the order nisi as discussed with those amounts that I read in, six-month redemption period, and the claims are dismissed as against Mr. Zhou and Mr. Reddy with costs, as indicated. All right. The rest --
- [37] CNSL A. DHINSA: Your Honour --
- [38] THE COURT: Yes.
- [39] CNSL J. SINGH: Thank you.
- [40] CNSL A. DHINSA: I -- we are asking for a right to a summary accounting and how Mr. Singh did mention that -- during his submissions that accounting would be [indiscernible] as to the amount.
- [41] THE COURT: You are disagreeing with the amount owing?
- [42] CNSL A. DHINSA: Yes.
- [43] CNSL J. SINGH: Your Honour, if there is any issue with the accounting, I will look at whatever is sent by Mr. Dhinsa, and I can take a look with my clients for the correct accounting.
- [44] THE COURT: All right. I will grant the order subject to the right of the respondent 454 to seek a summary accounting of the amount owing. You can apply if you cannot sort it out.

"Associate Judge Hughes"

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