

CANADA / JUDGMENT

Nantel v. Breaks

2025 BCSC 2481

COURT

Supreme Court of British Columbia

DECIDED

9 December 2025

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2025 BCSC 2481 Nantel v. Breaks

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Nantel v. Breaks,

2025 BCSC 2481

Date: 20251209

Docket: S234286

Registry: New Westminster

Between:

Francois Claude Nantel

Plaintiff

And

Leslie Breaks, Julie Fairhurst, Jason Fairhurst, Dustin Fairhurst, Royal LePage Northstar, Ray Werger, Les Wellman, Royal LePage West Real Estate Services, Ross Davidson, and James L. Davidson & Company Corp.

Defendants

Before: The Honourable Madam Justice Sukstorf

Oral Reasons for Judgment

The Plaintiff Appearing on own behalf:

F.C. Nantel

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Place and Dates of Hearing:

Port Coquitlam, B.C.

June 13, 2025

December 5, 2025

Place and Date of Judgment:

Port Coquitlam, B.C.

December 9, 2025

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Overview

- [1] THE COURT: This decision was delivered in the form of Oral Reasons. The Reasons have since been edited for publication.
- [2] These are my reasons on the applications brought by the realtor defendants and the lawyer defendants. They ask that the claims against them be dismissed under Rule 9-6 of the Supreme Court Civil Rules and, in the alternative, under Rule 9-7.
- [3] The action arises from Mr. Nantel's purchase, in late 2018, of a manufactured home in a Langley mobile-home park. He now says the home was smaller than advertised, lacked proper heating, had undisclosed defects, did not provide the parking and pad-rent terms he expected, and was overpriced. He sues his buyer's agent and her team, the listing realtors and their brokerages, and his conveyancing lawyer and law firm.
- [4] Broadly, he alleges negligence, negligent and fraudulent misrepresentation, breach of fiduciary duty, intentional misconduct, breach of contract, and, with respect to the lawyer defendants, conflict of interest and negligent legal advice, including a failure to advise him how to get out of the deal.
- [5] For the reasons that follow, I am satisfied that none of those claims discloses a genuine issue for trial. The applications are granted, and the action is dismissed as against all moving defendants under Rule 9-6. On the same record, I would reach the same result under Rule 9-7.

Facts

- [6] The core facts relevant to this application are not in serious dispute. In November 2018, Mr. Nantel purchased a manufactured home for \$82,000 in a Langley mobile-home park. His initial offer was \$70,000. After negotiation, a counter-offer at \$82,000 was accepted.
- [7] He retained Ms. Leslie Breaks as his designated buyer's agent. The listing agent was Mr. Ray Werger. The seller was Mr. Moffat. Mr. Ross Davidson and his firm were retained later to complete the conveyance and arrange a small private mortgage.
- [8] The MLS listing described the home as approximately 14 by 52 feet, with "Fuel/Heating: Electric", "2 parking", and pad rent of \$500 per month. It also contained standard language that measurements were approximate and that buyers should verify details if important.
- [9] Before subject removal, Mr. Nantel viewed the property. He toured the interior of the home and says the viewing was brief and did not include a walk-around of the exterior. He raised questions about pad rent and spoke directly to the park manager. He learned that the park intended to charge him a higher rent as a new tenant, which he understood would be about

\$675 per month. He then completed the park's tenancy application, signed the tenancy documents, and initialled the park's Rules of Tenancy, which specified one parking stall per unit with additional parking available for a fee.

- [10] He did not obtain a home inspection. He signed a waiver of the inspection condition despite being urged to get an inspection. He did not obtain an appraisal or any expert evidence of value.
- [11] After moving in, he concluded the home was closer to 14 by 49 feet, that one room was unheated and should not have been counted as part of the living area, that the heating relied on portable electric heaters rather than built-in baseboards, that there were exterior and skirting issues, and that he could only effectively park one vehicle. He later came to believe the home was overpriced and that he should have benefited from the seller's lower pad rent. These experiences underpin his claims.

History of Proceedings

- [12] The notice of civil claim was filed in December 2020 and named several defendants, including BC Assessment and the seller, Mr. Moffat. Neither was ever served, and neither has participated in the proceeding. As a result, the Court has no jurisdiction over them. After canvassing the matter with counsel at the last hearing, I exercised my discretion under the Rules to remove both BC Assessment and Mr. Moffat as defendants.
- [13] The remaining defendants--his buyer's agent, Ms. Breaks, and her team; the listing agents and their brokerage; and his conveyancing lawyer and law firm--filed detailed affidavits and supporting documents. Mr. Nantel filed his own affidavits, correspondence, and extensive written submissions. No examinations for discovery have taken place.
- [14] After the June hearing, the matter was adjourned for approximately six months. During that adjournment, I expressly advised Mr. Nantel to seek legal advice before responding to the defendants' applications. When asked whether he had sufficient time to do so, he confirmed he did, but chose not to obtain counsel.
- [15] He did, however, seek leave to introduce additional information at this appearance. That proposed evidence related to the difference between the pad rent he now pays and the lower amount Mr. Moffat had historically paid. He explained that he believes he should have been provided with a form that, in his view, would have entitled him to assume Mr. Moffat's prior pad rent.
- [16] He attributes to the realtor defendants a responsibility to advocate for him in that regard. I have considered that material and his explanation. Even if those assertions are taken at their highest, they do not alter the legal analysis I set out below.

Legal Framework

- [17] Under Rule 9-6, the Court may dismiss all or part of a claim where there is no genuine issue for trial. The Court looks first to the pleadings to see whether the material facts necessary to support a recognized cause of action have been alleged. If, taking the pleaded facts at their highest, the claim is bound to fail, it must be struck.
- [18] If a viable cause of action is pleaded, the Court then considers the evidentiary record. Each side must put its best foot forward. The Court does not weigh competing credibility, but it may grant judgment where the material facts are undisputed or incontrovertible, and there is no realistic prospect that a trial would change the result.
- [19] Rule 9-7 provides a similar summary mechanism where the evidentiary record permits the Court to find the facts necessary to resolve the issues and it would not be unjust to do so. The underlying objectives of proportionality, efficiency, and access to justice are well established.

Analysis of Issues

Issue 1: Realtor Defendants

- [20] I start with the claims against the realtor defendants. For simplicity, I treat the claims in negligence, negligent misrepresentation, fraudulent misrepresentation, breach of fiduciary duty, intentional wrongdoing, and breach of contract together.

Negligence

- [21] Realtors owe a duty of reasonable care, not a duty to guarantee value, condition, or outcome. They are not home inspectors and are not required to discover latent defects unless they have actual knowledge of them.
- [22] Mr. Nantel says that his buyer's agent should have conducted a far more thorough viewing: she should have spent more time inside the home, walked him around the exterior, taken photographs and notes, and identified what he now describes as numerous defects--porch deterioration, skirting issues, a breach in the building envelope, and a cut-out in the exterior wall to access the hot-water tank. He also says she should have recognized that the property was overpriced, warned him that he was overpaying, and provided additional market comparables. Even if I accept that he experienced the viewing in that way, it does not change the legal analysis.

- [23] On the record before me, there is no admissible evidence establishing that any of the alleged defects were latent, known to the realtors, or reasonably detectable through a visual, non-expert inspection. Many of the conditions he now complains of were visible and, by his own account, some were known to him before completion. No evidence suggests that the defendants had any reason to suspect structural or envelope issues beyond what an inspection would reveal.
- [24] Mr. Nantel had a contractual right to obtain a professional inspection. He was expressly reminded of that right and urged to exercise it. He declined. A buyer who elects to waive an inspection assumes the risk of undiscovered defects unless there is evidence that the realtor knowingly concealed a latent defect. There is no such evidence.
- [25] As for value, Mr. Nantel provides no appraisal, no expert opinion, and no acceptable market analysis. His personal comparables are not admissible evidence. The uncontradicted affidavit of Mr. Fairhurst, who had extensive experience with mobile-home transactions, confirms that the price range for similar units at that time was between \$80,000 and \$100,000. In short, dissatisfaction with the price paid does not establish negligence.
- [26] On this record, the negligence and "overpricing" theories cannot succeed.

Misrepresentation

- [27] The alleged misrepresentations relate to measurements, heating, pad rent, parking, and general condition.

i) Measurements

- [28] Mr. Nantel points to a three-foot discrepancy between the MLS listing and his later measurement. MLS listings expressly describe measurements as "approximate," and the Contract of Purchase and Sale reinforces that measurements are not guaranteed. Courts consistently treat minor, discoverable variances as falling under the doctrine of caveat emptor.
- [29] Mr. Nantel read the listing, signed the contractual disclaimers, and waived the right of inspection. There is no evidence that this modest variance had any material effect on value. No triable issue arises from the measurements.

ii) Heating

- [30] The MLS listing stated "Fuel/Heating: Electric" and listed "2 electric heaters" as included items. At the time of purchase, the home was heated by two electric heaters; the oil furnace was not operational. The listing did not state that the house had baseboard heat, central electric heat, or any particular heating configuration.

- [31] Mr. Nantel says that, despite walking through the home, he interpreted "electric heating" to mean either fixed baseboards or a whole-home electric system. There is no evidence he ever raised this expectation with his agent at the time. The absence of baseboards would have been visually apparent during the viewing. His complaint is therefore based on his own assumption, not on any false statement by the defendants.
- [32] The law in British Columbia is clear. Under the doctrine of caveat emptor, a purchaser is responsible for discovering patent defects through reasonable inspection. (see: *Nixon v. MacIver* 2016 BCCA 8, relying on a well-known passage from the judgment of Mr. Justice Dickson (as he then was) in *Fraser-Reid v. Droumtsekas*, [1980] 1 S.C.R. 720, 1979 CanLII 55 (SCC)).
- [33] The evidence demonstrates that many of the matters Mr. Nantel now raises were known to him, or reasonably knowable, before he lifted his conditions. All of the alleged defects were patent, objectively verifiable physical features of the home--the type of issues that a standard home inspection would have readily identified. Having chosen to waive that inspection, he bears the risk of such defects; it does not shift to the realtors, who are not home inspectors and owe no duty to detect defects absent actual knowledge.
- [34] There is also no evidence that the realtors knew of any defect in the heating system. Without proof of falsity, knowledge, reasonable reliance, and resulting damage, no negligent or fraudulent misrepresentation can be established.

iii) Pad Rent

- [35] The MLS listing showed pad rent of \$500, which was slightly higher than the seller's rent. Before removing subjects, however, Mr. Nantel spoke directly with park management and learned that his rent as a new tenant would be \$675. He then signed the tenancy documents on that basis and waived his conditions.
- [36] Once he received authoritative information from the park, he could not reasonably rely on the MLS figure. Any difference between the seller's rent and the rent charged to a new tenant is a matter between the tenant and the landlord--not a misrepresentation by the realtor.
- [37] Mr. Nantel now argues that the realtor was obligated to secure the seller's lower pad rent for him by having Mr. Moffat complete an RTB-10 assignment form. That position is inconsistent with the Manufactured Home Park Tenancy Act, S.B.C. 2002, c. 77 [MHPTA] and the Manufactured Home Park Tenancy Regulation, B.C. Reg. 481/2003 [Regulation]. Under the Act, a tenancy does not transfer with the sale of a manufactured home, and a month-to-month tenancy cannot be assigned without the landlord's written consent. There is no evidence that Mr. Moffat had any assignable tenancy rights, nor that the park would have consented to such an assignment. Indeed, Mr. Nantel's own exhibit--the email from Ms. Breaks dated November 14, 2018--correctly explained that the assignment was not available because Mr. Moffat was not on a fixed-term lease. (see s. 28 of the MHPTA)

[38] Under the Regulation (as read together with s. 28 of the MHPTA), only a valid assignment of a tenancy -- by means of an RTB-10 consent -- preserves the existing pad-rent. If no assignment occurs because the seller lacked a tenancy, the purchaser must apply as a new tenant, as happened in this case. In that circumstance, the landlord may set a new rent. There is no statutory requirement that the buyer pay the seller's former rent. Accordingly, the park was entitled, under statute and regulation, to charge the plaintiff a new rent.

[39] Any financial loss Mr. Nantel attributes to higher pad rent arose from the park's independent rent-setting decision, not from any misrepresentation.

iv) Parking

[40] The MLS listing noted "2 parking." The park's Rules of Tenancy--which Mr. Nantel reviewed and initialled before removing subjects--expressly state that each unit has one designated parking stall, with additional parking subject to availability and a fee.

[41] The driveway, which was larger than a one-car driveway, was readily apparent upon inspection. The generic MLS field does not constitute a warranty that two legal stalls exist. No false statement, no reasonable reliance, and no compensable loss are established.

v) Condition

[42] Statements such as "well-maintained" are non-actionable opinions or marketing puffery. They are not statements of fact. Even if his concerns about staging and cleanliness are taken at their highest, they do not satisfy the legal elements of misrepresentation.

vi) Conclusion on Misrepresentation

[43] Taken together, the MLS-related allegations--measurements, heating, pad rent, parking, and condition--fail to meet the requirements for negligent or fraudulent misrepresentation. No triable issue arises.

Fraud, Fiduciary Duty, and Intentional Torts

[44] Fraud requires clear and cogent evidence that a defendant knowingly made a false representation with the intent to deceive. No such evidence exists. The listing agents relied on information from the seller and from the park. The buyer's agent conveyed that information, urged an inspection, and followed her client's instructions.

[45] Fiduciary duty requires evidence of disloyalty, self-interest, or abuse of power, not merely dissatisfaction after the fact. Realtors' commissions are not a conflict; they are the ordinary structure of real estate transactions. Advising of a backup offer is required by law.

- [46] Mr. Nantel says the agent rushed him, used "FOMO," or steered him away from a different property on King George Boulevard. The evidence shows that the King George property had already been sold, and he himself expressed concerns about its grow-op history and higher pad rent. There is no evidence that the agent benefited from steering him toward this property or that the agent subordinated his interests.
- [47] Allegations of "malice," "pressure," or "rush," even if accepted, do not amount to a recognized intentional tort.

Breach of Contract

- [48] The plaintiff identifies no contractual term that was breached. The standard service agreement does not guarantee value, measurements, heating, pad rent, or inspection. The realtors did what they were retained to do: show the property, provide available information, negotiate the offer as instructed, and complete the transaction.
- [49] Dissatisfaction after the fact is not a breach of contract.
- [50] In summary, the claims against the realtor defendants, in all their various formulations, lack legal or evidentiary foundation and present no genuine issue for trial.

Issue 2: Lawyer Defendants

- [51] I turn now to the claims against Mr. Davidson and his law firm. Mr. Nantel advances several theories here, including negligence, negligent misrepresentation, breach of fiduciary duty, conflict of interest, and intentional wrongdoing. Because they all arise from the same short period of time and the same interaction, I address them together.
- [52] The timing and scope of the legal retainer are critical. By his own evidence, Mr. Nantel retained Mr. Davidson after all subject conditions on the Contract of Purchase and Sale had been removed, after he had been approved as a tenant by the park, and at a point when the contract was fully binding. Mr. Davidson's role was limited to conveyancing and arranging a small private mortgage. A conveyancing lawyer is not expected to explore rescission remedies, contractual defences, or litigation strategy unless the client specifically asks for that assistance.
- [53] Mr. Nantel now says that Mr. Davidson should have advised him how to "legally get out of the deal," and that, had he been given such advice, he would not have proceeded with the purchase. The evidentiary record does not support this. By Mr. Nantel's own evidence, when the issue of pad rent arose, Mr. Davidson advised that the difference between the seller's rent and the rent the park intended to charge a new tenant was not a legal basis to terminate the contract and that refusing to complete could expose him to liability for breach. That advice was accurate at law. Accurate advice cannot form the basis of negligence or misrepresentation.

- [54] Importantly, Mr. Nantel did not instruct Mr. Davidson to seek rescission or to litigate the contract. During the closing, Mr. Nantel signed the tenancy documents, the mortgage documents, the Statement of Adjustments, and the transfer papers. In those circumstances, Mr. Davidson could not reasonably have understood that he was being asked to pursue any extraordinary remedy or unwind a completed contract.
- [55] Even if one assumed, for the sake of argument, that some broader duty existed, there is no evidence that any viable rescission remedy was available, that Mr. Davidson could have obtained it, or that Mr. Nantel would have pursued it. Speculation is not evidence. Without proof that a remedy existed and would have been effective, the essential elements of causation and loss cannot be met.

Conflict Issue

- [56] As for the conflict of interest, Mr. Davidson acted for both Mr. Nantel and the private lender. That dual representation was fully disclosed in writing. Mr. Nantel signed an acknowledgment confirming his consent and was expressly advised to obtain independent legal advice if he had any concerns. He declined to do so. There is no evidence that Mr. Davidson acted for any other party in the transaction--he did not act for the seller, for the listing agents, or for anyone with interests adverse to Mr. Nantel. There is also no evidence that he placed the lender's interests ahead of Mr. Nantel's or that he gained any personal advantage. Without proof of disloyalty or self-interest, a fiduciary duty claim cannot succeed.
- [57] Allegations that Mr. Davidson "double-booked" appointments or "rushed" the signing, even if taken at their highest, do not amount to fraud, undue influence, or any recognized intentional tort. They do not establish bad faith, dishonesty, or pressure of a kind that could give rise to liability.
- [58] In short, the evidence does not support any of the claims advanced against the lawyer defendants. There is no basis on which a court could find negligence, negligent misrepresentation, breach of fiduciary duty, conflict of interest, or fraud. No genuine issue arises for trial on any of these theories.

Issue 3: New Evidence

- [59] I add a brief note regarding Mr. Nantel's request that the court consider his "new evidence," which includes a spreadsheet calculating cost differentials in pad rent over time and an Owner Transfer Form relating to the tenancy.
- [60] I have reviewed those materials. They do not change the analysis. The rent calculations reflect the financial consequences of the park's decision to charge him a higher pad rent as a new tenant. They do not transform accurate statements into misrepresentations, nor do they create any duty on the part of realtors or lawyers to secure a particular rent.

[61] The Owner Transfer Form and related tenancy documents confirm that the park controls who may occupy each pad and on what terms. They are consistent with, not contrary to, the statutory framework and the evidence relied on by the defendants.

[62] Even if all of this material is accepted at face value, it does not supply the missing elements of duty, misrepresentation, or causation required to send any of the pleaded claims to trial.

Conclusion

[63] I appreciate that Mr. Nantel is deeply disappointed with the outcome of this purchase and that he believes the property, pad rent, and ongoing costs have been unfair to him. I do not doubt the sincerity of his concerns. However, this Court's role is to apply the law to the facts. On the undisputed record before me, the law does not provide a remedy for disappointment with a purchase where no breach of duty, no actionable misrepresentation, and no compensable loss caused by these defendants can be established.

[64] Having reviewed the pleadings and the evidence, I am satisfied that Mr. Nantel has not pleaded, nor adduced, the material facts necessary to support any of the causes of action advanced against the realtor or lawyer defendants. Their evidence provides complete answers to his allegations, and there is no realistic prospect that a trial would alter that conclusion. There is no genuine issue for trial.

Disposition and Orders

[65] The claims against all moving defendants are therefore dismissed in their entirety under Rule 9-6. In the alternative, and on the same evidentiary record, I would reach the same result under Rule 9-7.

[66] The moving defendants are entitled to their costs of these applications at Scale B. For Mr. Nantel's benefit, as a self-represented litigant, I note that "Scale B" is the ordinary level of costs routinely awarded to a successful party in this Court.

"S. Sukstorf J."

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Prepared on 26 October 2026 · Esheria