

CANADA / JUDGMENT

Osooli-Talesh v. Emami

2003 BCSC 1924

COURT

Supreme Court of British Columbia

DECIDED

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IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Osooli-Talesh v. Emami,

2003 BCSC 1924

Date: 20031222

Docket: S026800

Registry: Vancouver

Between:

Shahram Osooli-Talesh

Plaintiff

And

Ramin Emami

Defendant

Before: The Honourable Madam Justice Gray

Reasons for Judgment

Counsel for the Plaintiff:

F. Mikis Manolis

Counsel for the Defendant:

John D. Whyte

Date and Place of Hearing:

October 20, 2003

Vancouver, B.C.

INTRODUCTION

- [1] The plaintiff, Mr. Osooli-Talesh, is the registered owner of an undivided 6/7th interest in property with the civic address of 4004 Delbrook Avenue, North Vancouver, a property I will refer to as the "Delbrook Property".
- [2] The registered owner of the other undivided 1/7th interest is Roohangiz Kazemi, who is the mother of the defendant, Mr. Emami. It is contentious whether it is Mr. Osooli-Talesh or Mr. Emami who is the beneficial owner of Mr. Osooli-Talesh's registered 6/7th interest in the Delbrook Property, which I will term the "Majority Interest".
- [3] Mr. Osooli-Talesh has sued Mr. Emami in connection with a number of documents signed by Mr. Osooli-Talesh on July 24, 2002. The documents purport to confirm that Mr. Osooli-Talesh holds the Majority Interest as bare trustee for the sole benefit of Mr. Emami as beneficial owner. The documents include a declaration of bare trust and agency agreement, which was backdated to January 11, 1999. The documentation includes a form of transfer of legal title to Mr. Emami, but that transfer has not been registered in the Land Title Office. One of the remedies claimed by Mr. Osooli-Talesh in this lawsuit is a declaration that he is the beneficial owner of the Majority Interest.
- [4] Mr. Osooli-Talesh has applied for an extension of an injunction restraining any dealings with the Delbrook Property. A series of orders have been made to that effect pursuant to s. 284 of the Land Title Act, R.S.B.C. 1996, c. 250.
- [5] This application proceeded on the basis of affidavit evidence only. The issues on this application are first, what is the appropriate test for obtaining the injunction sought and, secondly, has Mr. Osooli-Talesh satisfied that test.
- [6] Mr. Manolis, counsel for Mr. Osooli-Talesh, argued that the proper test is the traditional test for an interlocutory injunction, requiring the applicant to establish a fair or serious question to be tried, that the applicant would suffer irreparable harm if the injunction is not granted, and that the balance of convenience favours granting the injunction.
- [7] Mr. Whyte, counsel for Mr. Emami, argued that the test is the test for a "Mareva" injunction. The difference is that, rather than being required to establish there is a fair or serious question to be tried, the applicant would be required to establish a strong prima facie case. Mr. Whyte argued that whatever the proper test, Mr. Osooli-Talesh has failed to satisfy it.

FACTS

- [8] One of the unusual features of this application is that there is very little evidence on the merits of the claim, although the parties have made extensive allegations in the pleadings. Mr. Osooli-Talesh has not sworn an affidavit in support of his application, although he executed a Caveat dated October 9, 2002. In the Caveat, Mr. Osooli-Talesh's solicitor deposed that he had been informed that the allegations in the Caveat were true in substance and in fact.
- [9] It appears that many of the background facts are not in issue. I will set out the facts, attempting to indicate whether what I describe is contentious, and to refer to the source of what I list as facts. However, because this is an interlocutory application and in light of the nature of the evidence, I am not making findings about contentious facts.
- [10] Mr. Osooli-Talesh is about age 34, but other facts about him are contentious. He alleged in the statement of claim that he has retired and lives in North Vancouver. Mr. Emami alleged in his statement of defence that Mr. Osooli-Talesh is an instructor of traditional karate and resides in the Philippines.
- [11] Mr. Emami has deposed that he is a businessman. He alleged that he started "The Dojo Academy" karate school as a proprietorship in September 1994. I infer that Mr. Osooli-Talesh was an active student at that school.
- [12] Mr. Osooli-Talesh was injured in a motor vehicle accident on July 14, 1995. He alleges that he suffered a brain injury, and has a continuing diminished capacity to understand complex matters. Mr. Emami agrees that Mr. Osooli-Talesh suffered injury in the motor vehicle accident, but denies that he has any diminished capacity to understand complex matters.
- [13] The material suggests that Mr. Osooli-Talesh spent a month or two after the accident in the G.F. Strong Rehabilitation Hospital, and then a period in a group home. Mr. Osooli-Talesh's position is that Mr. Emami acted as his caregiver, confidante and fiduciary for years afterwards. Mr. Emami's position is that he assisted Mr. Osooli-Talesh for about four months and then Mr. Osooli-Talesh's brother took over assisting him.
- [14] The materials include a copy of a letter dated November 20, 1995, from a consultant occupational therapist regarding Mr. Osooli-Talesh. The letter states that Mr. Osooli-Talesh should not be left alone with a stove or go out on his own because of problems with attention. It states that he has limitations with his attention, memory, concentration and higher cognitive functions.
- [15] The materials include a letter from a speech pathologist dated October 31, 1996. This letter states that Mr. Emami reported that Mr. Osooli-Talesh often forgot what he had been told to do. The letter states that Mr. Osooli-Talesh has very significant impairments across all communication modalities and that his difficulties cross the areas of auditory comprehension, reading and writing.

- [16] The materials include a letter from an occupational therapist dated February 5, 1998. This refers to Mr. Emami as Mr. Osooli-Talesh's "primary caregiver", although Mr. Emami denies that. The letter states that Mr. Osooli-Talesh was residing in the basement suite of Mr. Emami's house. This letter refers to Mr. Emami as Mr. Osooli-Talesh's "primary caregiver", although Mr. Emami says he did not play that role at that time. This letter says that Mr. Osooli-Talesh scored four out of ten in the money management section of a cognitive competency test. It says he had knowledge of his income but was not aware of the source and that his main difficulty was in remembering to pay bills.
- [17] The materials include a letter from a vocational consultant dated February 27, 1998. This states that Mr. Osooli-Talesh had significant difficulty answering questions. It states that he scored at a grade one level in arithmetic and spelling and a grade six level in reading. It states that Mr. Osooli-Talesh's first language was Farsi. The letter states that Mr. Osooli-Talesh was fatigued throughout the interview. The vocational consultant's opinion was that Mr. Osooli-Talesh was competitively unemployable and would remain so unless he is able to show a significant improvement in his day-to-day functioning.
- [18] The material includes a letter from an occupational therapist dated April 15, 1998. This assesses Mr. Osooli-Talesh's money management functional status at a level 2, requiring maximum assistance, meaning Mr. Osooli-Talesh would perform 25-50% of the functions. It states that he is limited by poor cognition.
- [19] It does not appear to be disputed that on January 7, 1999, the Delbrook Property was purchased for \$400,000 and registered in the name of Ms. Kazemi as to an undivided 1/7th interest and Mr. Osooli-Talesh as to the Majority Interest. The title also shows a mortgage on the same date to Canada Trustco Mortgage Company. That mortgage is for \$260,000 and the principal amount becomes payable on demand after January 11, 2004. Mr. Osooli-Talesh has alleged that he paid the \$140,000 down payment and subsequently received \$20,000 from Mr. Emami, such that his net investment was \$120,000, being 6/7ths of the capital invested.
- [20] The basis upon which Mr. Osooli-Talesh paid this \$120,000 is contentious. Both parties admit that a Joint Venture Agreement was executed between Mr. Osooli-Talesh and Ms. Kazemi. It provides that Mr. Osooli-Talesh will pay only 31% of the mortgage to Canada Trustco, and Ms. Kazemi, 69%. It provides that the parties will equally share costs and profits on a year-to-year basis. It provides that when the Delbrook Property is sold, the net proceeds will be paid out first by paying Mr. Osooli-Talesh \$120,000, next by paying Ms. Kazemi \$20,000, and then equally dividing the balance.
- [21] Mr. Emami has alleged that in or about January 1999, Mr. Osooli-Talesh agreed to purchase 40% of "The Dojo Academy" for \$100,000, on the basis that he had up to two years to choose to rescind that investment. Mr. Emami has alleged that if Mr. Osooli-Talesh did not rescind the investment within two years, Mr. Osooli-Talesh was to transfer Majority Interest to Mr. Emami.

- [22] In his statement of defence to counterclaim, Mr. Osooli-Talesh alleges that he agreed to purchase one-third of The Dojo Academy and a second location known as "Tora" for \$100,000, but says this was entirely unrelated to the agreement with respect to the Delbrook Property.
- [23] Mr. Emami has been the principal resident of the Delbrook Property since January 11, 1999. The evidence suggests that Mr. Osooli-Talesh was also an occupant of the house for some period of time since January 11, 1999, although that is not clear.
- [24] The materials include a letter dated October 10, 2000, from a consultant occupational therapist. It states that Mr. Osooli-Talesh had difficulty recalling the basics and sequences correctly and required cueing and demonstration by Mr. Emami. It quotes Mr. Emami as reporting that Mr. Osooli-Talesh's residual physical and cognitive deficits are a barrier to him achieving at the black belt or instructor level, but Mr. Emami granted him an "honorary" black belt which he decided was important for Mr. Osooli-Talesh's self-esteem.
- [25] Mr. Emami has alleged that on January 3, 2002, he suffered injuries in a motor vehicle accident which impaired his ability to perform as a karate instructor. Mr. Emami has alleged that Mr. Osooli-Talesh became the main instructor at the Tora school, until Mr. Osooli-Talesh "deserted" it on June 1, 2002.
- [26] The group of documents signed on July 24, 2002, includes a Form A Freehold Transfer of that date, a Declaration of Trust dated January 11, 2002, and a Bare Trust and Agency Agreement also dated January 11, 1999. As stated above, they purport to confirm that Mr. Osooli-Talesh holds the Majority Interest in trust for Mr Emami, and to transfer title to him. The transfer has not been registered in the Land Title Office.
- [27] Mr. Osooli-Talesh has made a number of allegations in connection with the signing of these documents on July 24, 2002. He has alleged that they were signed for no consideration, under undue influence, through Mr. Emami's breach of fiduciary duties, on the basis of fraudulent misrepresentation and that Mr. Emami has been unjustly enriched. Mr. Osooli-Talesh has also alleged that the transaction was unconscionable and constitutes a fraudulent conveyance. He also alleged that Mr. Emami was now saying that payment of the \$120,000 was contingent on the success of Mr. Emami's business ventures.
- [28] Mr. Osooli-Talesh signed a Caveat dated October 9, 2002, which was filed in the Land Title Office the following day. In that Caveat he stated that he paid \$120,000 towards the purchase price of the property. He said that the monies he provided "were effectively an interest free loan" to Mr. Emami, and that his registered ownership of the land was his security for the \$120,000 loan to Mr. Emami. He alleged that he did not understand the effect of documents signed on July 24, 2002. His lawyer deposed that Mr. Osooli-Talesh informed the lawyer that the allegations were true.

- [29] Mr. Osooli-Talesh commenced this lawsuit in December, 2002. On December 13, 2002, Madam Justice Brown granted an interim injunction restraining any dealings with the Delbrook Property for a period of 30 days, and granting Mr. Osooli-Talesh liberty to apply to extend the order. This order was made ex-parte.
- [30] On January 13, 2003, Madam Justice Garson extended the December 13, 2002 order for a period not to exceed 180 days. The January 13, 2003 order was also made ex-parte.
- [31] The statement of defence and counterclaim were filed March 10, 2003, and the statement of defence to the counterclaim was filed on March 24, 2003.
- [32] On April 25, 2003, Mr. Osooli-Talesh served Mr. Emami with a notice to end Mr. Emami's alleged tenancy of the Delbrook Property, on the basis that there was rent due April 11, 2003, remaining unpaid.
- [33] On May 8, 2003, Mr. Osooli-Talesh served Mr. Emami with a second notice to end an alleged tenancy. This one was on the stated basis that the owner sought to occupy the premises.
- [34] On July 9, 2003, an arbitrator set aside the second notice pursuant to s. 44 of the Residential Tenancy Act, R.S.B.C. 1996, c. 406. That decision was made on the basis that this court's injunction prohibiting any dealings with the land included a prohibition against serving a notice to end the tenancy. The arbitrator was also not satisfied that he had jurisdiction to make a determination as to the ownership of real property when it was at issue in this proceeding.
- [35] On July 10, 2003, Mr. Justice Melnick issued an order extending Madam Justice Garson's order for a period not to exceed 90 days.
- [36] The 2003 assessed value of the Delbrook Property is \$464,500, being an increase of \$64,500 from the original purchase price in January, 1999.
- [37] Mr. Emami has deposed that if the injunction prohibiting dealing with the property is lifted, he intends to transfer the property into his own name and encumber it with a further mortgage. He deposed that he intends to use the borrowed funds for costs including his costs of defending this claim.
- [38] The trial date has not yet been scheduled.
- [39] At the hearing before me on October 20, 2003, I ordered that the injunction continue until my further order.

ANALYSIS

A. What is the Appropriate Test for an Injunction in this Case

[40] Subsections 284(1) and (2) of the Land Title Act are as follows:

- (1) In this section, "order" includes injunction.

- (2) The Supreme Court may,
- (a) on the application of a person interested in land, or
 - (b) on application made on behalf of the owner of a future or contingent interest,
- make an order prohibiting dealing with that land.

[41] I was unable to find any authority considering this section.

[42] In order to determine the appropriate test for granting of an injunction under s. 284, I considered these three tests:

- (a) for preservation of property pursuant to Rule 46;
- (b) for a traditional interim injunction; and
- (c) for a "Mareva" injunction.

(a) Rule 46, Preservation of Property

[43] Rule 46 provides that the court may make an order for the preservation of any property that is the subject matter of a proceeding. The court has the discretion whether to make an order under Rule 46. The considerations for the court are as follows (see *Kashani v. Dhalla*, [2002] B.C.J. No. 2201, 2002 BCSC 1353, *Chiu v. Jao*, [1998] B.C.J. No. 2360 (S.C.), *Kongrecki v. Rafael*, [1993] B.C.J. No. 1631 (C.A.)):

- (a) Is there a claim on the evidence and not just on the pleadings to a proprietary interest in property?
- (b) Is there some evidence to render reasonable the belief of the plaintiff that the property is threatened with disposition or transfer outside the jurisdiction?
- (c) Is there a substantial question to be decided as to the plaintiff's entitlement to the property?
- (d) Does the balance of convenience favour the granting of the order?

(b) Traditional Interim Injunction

[44] The traditional test for the granting of an interim injunction was set out by the Supreme Court of Canada in *RJR MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311, and *British Columbia (Attorney General) v. Gitanmaax Band* [also referred to as *Attorney General of British Columbia v. Wale*] (1986), 9 B.C.L.R. (2d) 333 (C.A.), *aff'd* [1991] 1 S.C.R. 62. The traditional test is as follows:

- i. A preliminary assessment must be made of the merits of the case to ensure that there is a fair or serious question to be tried.
- ii. It must be determined whether the applicant would suffer irreparable harm if the application were refused.

iii. An assessment must be made as to which of the parties would suffer greater harm from the granting or refusal of the remedy pending a decision on the merits.

(c) "Mareva" Injunction

[45] The term "Mareva injunction" is applied to injunctions which restrain a defendant from disposing of or handling assets on the basis that they might not be available to satisfy a judgment if pronounced. These injunctions are considered exceptional, and require a plaintiff to demonstrate a "strong prima facie case".

[46] The gist of the injunction is to freeze exigible assets when found within the jurisdiction. However, there must be a genuine risk of disappearance of assets. (See *Aetna Financial Services Ltd. v. Feigelman*, [1985] 1 S.C.R. 2).

(d) Discussion

[47] Mr. Osooli-Talesh's application under s. 284 of the Land Title Act seeks relief similar to an application under Rule 46 of the Rules of Court. Both applications deal with a plaintiff who is making a claim against property, although under the Land Title Act it is clear that the property must be land.

[48] Mr. Justice Sharpe, now a member of the Ontario Court of Appeal, discussed the appropriate test for injunctions restraining the disposition of assets pending trial in his book, *Injunctions and Specific Performance*, looseleaf (Ontario: Canada Law Book Inc. 2000). At para. 2.700 he states:

Interlocutory injunctions are frequently granted to restrain disposition of an asset where the plaintiff asserts a specific or proprietary claim in respect of that asset. Rules of Court typically provide for interim preservation of property. ...The basis for injunctive relief here is to prevent dissipation or destruction of the property which is the subject matter of the suit. Such orders are made in accordance with the usual principles governing interlocutory injunctions and are to be distinguished from Mareva injunctions.

[emphasis added]

[49] Mr. Justice Sharpe asserts that the traditional test for an interim injunction should apply to situations involving the preservation of property, such as Rule 46. In fact, the test as developed in B.C. under Rule 46 is essentially the application of the general interim injunction principles to circumstances dealing with property (see *Kashani*).

[50] The requirement that there be a claim on the evidence and not just on the pleadings to a proprietary interest in property, and the requirement that there be a substantial question to be decided as to the plaintiff's entitlement to the property, are essentially the same question as whether there is a fair or serious question to be tried.

- [51] The requirement to show that there is evidence to render reasonable the belief that the property is threatened with disposition or transfer is another formulation of the question of whether the applicant would suffer irreparable harm if the application were refused. Lastly, the question of whether the balance of convenience favours the granting of the order is similar to the traditional test for an interim injunction.
- [52] In my opinion, the test under Rule 46 and for a traditional interim injunction is, in essence, the same. However, they differ from the more onerous test to obtain a Mareva injunction because they do not require the higher standard of a "strong prima facie case".
- [53] Mr. Osooli-Talesh's application differs from an application for a Mareva injunction importantly in that it does not seek to affect all of Mr. Emami's assets. The order sought would not restrict Mr. Emami from dealing with anything except his alleged beneficial interest in 6/7th of the Delbrook Property.
- [54] It is appropriate for the more onerous "Mareva" test to apply to cases where the applicant does not directly claim an interest in specific property, instead claiming judgment which may be executed against the property to be the subject of the injunction. In such cases, the court is protecting the viability of a judgment, rather than protecting an applicant's claim for specific performance of a right to particular property. As a result, in this case, the traditional test should apply.
- [55] In summary, the test under s. 284 of the Land Title Act can be stated as follows:
- (a) Is there a fair or serious question to be tried, on the evidence and not just on the pleadings, as to the plaintiff's entitlement to a proprietary interest in property?
 - (b) Is there a fair or serious question to be tried, on the evidence and not just on the pleadings, that the property is threatened with disposition or transfer outside the jurisdiction?
 - (c) Does the balance of convenience favour the granting of the injunction?

B. Application of the Test

- (i) Is there a fair or serious question to be tried, on the evidence and not just on the pleadings, as to the plaintiff's entitlement to a proprietary interest in the property?
- [56] Mr. Osooli-Talesh has a registered 6/7th interest in the property. The parties agree that there is in existence a Joint Venture Agreement signed by Mr. Osooli-Talesh and Ms. Kazemi. The terms essentially provide that Mr. Osooli-Talesh is entitled to a 6/7th interest in the first \$140,000 value in the property, and 50% in the excess, although the latter interest may not arise until sale.
- [57] The Caveat states that the down payment provided by Mr. Osooli-Talesh and Ms. Kazemi was "effectively" an interest-free loan to Mr. Emami and that Mr. Osooli-Talesh's ownership of the land was his "security" for the "loan".

[58] The land could only be security of value if it included the beneficial interest. Accordingly, I am satisfied on the evidence and not just on the pleadings that Mr. Osooli-Talesh is claiming a proprietary interest in property.

[59] While Mr. Emami made numerous allegations in his statement of defence and counterclaim, there is no evidence on this application supporting his assertion that the plaintiff's interest in the property is limited to being just legal owner of the Majority Interest.

[60] I am satisfied that there is a fair or serious question to be tried as to Mr. Osooli-Talesh's claim to the undivided 6/7th interest in the Delbrook Property.

(ii) Is there a fair or serious question to be tried, on the evidence and not just on the pleadings, that the property is threatened with disposition or transfer outside the jurisdiction?

[61] Mr. Emami has deposed that if the injunction is lifted, he intends to transfer the Majority Interest into his name and thereafter place a second mortgage on the Delbrook Property. If so, the beneficial interest claimed by Mr. Osooli-Talesh would not be available to him. As a result, Mr. Osooli-Talesh has satisfied this branch of the test.

(iii) Does the balance of convenience favour the granting of the injunction?

[62] The consideration of the balance of convenience involves assessment of a number of factors together to reach an overall conclusion as to where the balance of convenience lies. (Canadian Broadcasting Corporation v. CKPG Television Ltd., [1992] 42 C.P.R. (3d) 526, (B.C.C.A.)). The points to consider were summarized in that case by Mr. Justice Lambert at p. 545, as follows:

I would summarize that approach in this way. In assessing the balance of convenience a judge should consider these points - the adequacy of damages as a remedy for the applicant if the injunction is not granted, and for the respondent if an injunction is granted; the likelihood that if damages are finally awarded they will be paid; the preservation of contested property; other facts affecting whether harm from the granting or refusal of the injunction would be irreparable; which of the parties have acted to alter the balance of their relationship and so affect the status quo; the strength of the applicant's case; any factors affecting the public interest; and any other factors affecting the balance of justice and convenience. It should be noted that the strength of the applicant's case is a separate factor, which should be considered under the second prong of the test, quite apart from the question under the first prong of the test of whether the applicant has established a fair question to be tried. But the assessment of the relative strength of the parties' cases must recognize the degree to which those cases have not yet been revealed because of the nature of the evidence and the way it has been presented on the injunction application, which may be markedly different from the way it would be presented at trial.

[63] I assess the relevant factors in this case as follows:

- (a) Damages would not be an adequate remedy for Mr. Osooli-Talesh if the injunction is not granted. Mr. Osooli-Talesh claims an interest in real property which was apparently his home for a period. The market value of the Delbrook Property has increased since the time of purchase and may continue to increase. Mr. Emami has deposed that he would like to borrow to fund his defence costs. That suggests he does not have the funds available to satisfy any money judgment Mr. Osooli-Talesh may recover. In contrast, if the order is amended in such a way as to permit the refinancing of the first mortgage, Mr. Emami's position is essentially unchanged from what it has been since January of 1999. While he will not be able to use the property's equity to raise money, he did not contribute to the purchase price. He claims the equity as the alleged purchase monies for his sale of a business interest to Mr. Osooli-Talesh;
- (b) The order sought would preserve contested property such that it would be available to whoever prevails at trial;
- (c) This is not a case in which it is easy to determine who has acted to alter the balance of the relationship and affect the status quo. However, at present Mr. Emami would be able to continue to reside in the Delbrook Property and it is a question of ultimate ownership of the equity which remains at issue;
- (d) The paucity of evidence on the merits of the case as opposed to allegations makes it difficult to comment on the strength of either party's case. However, I note that the alleged agreement to invest in "The Dojo Academy" does not appear to be reflected in the Joint Venture Agreement and is inconsistent with it. I also note that there is some independent evidence supporting the allegation that Mr. Osooli-Talesh may not have had the ability to easily understand business arrangements.

[64] Having considered these factors, I have concluded that Mr. Osooli-Talesh is entitled to the injunction.

SUMMARY

[65] As a result, Mr. Osooli-Talesh is entitled to an injunction until further order of this court restraining any dealings with his registered 6/7th interest in the following lands:

PID: 003-186-954

Lot 9 Block 4 District Lot 577 and 578 Plan 10011

except any dealings required to permit the refinancing of the first mortgage due to mature January 11, 2004 which are either ordered by the court or consented to by Mr. Osooli-Talesh.

[66] The injunction order must refer to Mr. Osooli-Talesh's undertaking to abide by any order which the court may make as to damages. Such a term is required by Rule 45(6). It was apparently overlooked in the December 13, 2002 order, but is included in the later orders.

- [67] The previous orders enjoin any dealings with the Delbrook Property, even though Mr. Osooli-Talesh's claim is only to the Majority Interest. I do not see any basis for extending the injunction to Ms. Kazemi's interest, and therefore I have limited the injunction to the Majority Interest.
- [68] There is no evidence concerning what efforts have been made to obtain refinancing. It may be that a mortgage lender will be concerned to have all parties claiming a beneficial interest in the Delbrook Property execute the mortgage, and may require both parties to this lawsuit to agree to be responsible for the mortgage payments.
- [69] If the parties are not able to resolve the refinancing issues on their own, they are at liberty to seek a hearing through the registry to speak to me about specific terms to enable a renewal mortgage. However, there could be scheduling problems if the hearing must proceed before me. As a result, I am not seized of this matter.
- [70] Since Mr. Osooli-Talesh has been successful in this injunction application, he is entitled to his costs of the application in the cause.

"V. Gray, J."

The Honourable Madam Justice V. Gray

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