

CANADA / JUDGMENT

Samra Enterprises Inc. v. 1022724 B.C. Ltd.

2022 BCSC 1936

COURT

Supreme Court of British Columbia

DECIDED

11 February 2022

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2022 BCSC 1936 Samra Enterprises Inc. v. 1022724 B.C. Ltd.

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Samra Enterprises Inc. v. 1022724 B.C. Ltd.,

2022 BCSC 1936

Date: 20220211

Docket: S210106

Registry: New Westminster

Between:

Samra Enterprises Inc. and Colossal Fortune Holdings Ltd.

Petitioners

And1022724 B.C. Ltd., Rajvir Singh Parmar Lakhvir Kaur Bhangu, Charankamaljeet Kaur Pannu,
Bawa Singh Bains and Gurmej Kaur Bains, John Doe, Tenant, Jane Doe, Tenant

Respondents

Before: The Honourable Mr. Justice Groves

in Chambers

On appeal from: Decision of Master of Supreme Court of British Columbia, March 30, 2021
(Samra Enterprises Inc. v. 1022724 B.C. Ltd., New Westminster Docket No. S210106)

Oral Reasons for Judgment

Counsel for the Petitioners (Respondents):

E. Wong

(as Agent for G.H. Richards)

Counsel for the Respondents (Appellants) 1022724 B.C. Ltd. and Rajvir Singh Parmar appearing by teleconference:

V. Verma

Counsel for Van Eagle Holdings Inc. appearing by videoconference:

D. Cheema

(as Agent for R. Davidson)

Appearing on her own behalf by teleconference:

C. Pannu

For the Respondents Lakhvir Kaur Bhangu, Bawa Singh Bains and Gurmej Kaur Bains, John Doe and Jane Doe:

No appearance

Counsel for Tri City Nominee Services Ltd. and Tri City Mortgage Fund Ltd. appearing by videoconference:

J.A. Van Netten

Counsel for Madan Joshi:

S. Visram

Appearing on his own behalf by videoconference:

R. Gill

Appearing on his own behalf by videoconference:

R. Thangaraja

Place and Date of Trial/Hearing:

New Westminster, B.C.

February 11, 2022r

Place and Date of Judgment:

New Westminster, B.C.

February 11, 2022

- [1] THE COURT: This is an appeal of a learned master from an order she granted on March 30, 2021. That order was in a foreclosure proceeding. It is what is known as an order confirming sale or a vesting order. The order covered certain lands which were the lands involved in the foreclosure, 2681 and 2683 East 41st Avenue in Vancouver. The effect of the vesting order was to vest those properties in the name of Madan Joshi. This was based on a contract of purchase and sale entered into on January 20, 2021, as it was amended, through a foreclosure bidding process. The price ultimately approved for this property was \$2,238,000. The vesting order provided a closing date of April 7, 2021, some eight days after the master's order.
- [2] The effect of the vesting order would remove from title the main respondents 1022724 B.C. Ltd. (102 B.C. Ltd.) and Rajvir Singh Parmar, but the vesting order would have also removed the mortgage of Mr. Bhangu, who has since assigned his mortgage to a company represented by Mr. Cheema in this proceeding. The vesting order also would have removed the mortgage of Ms. Pannu, who appeared in this proceeding before me in person, and also a mortgage of a Mr. and Ms. Bains, who have not appeared.
- [3] Additionally, it should be noted, the vesting order confirmed the liberty to extend the terms of the order for up to 14 days, to April 21, 2021.
- [4] The grounds for appeal, as set out in the notice of appeal, are vague at best. The grounds indicate that the master erred in failing to apply Rule 21-7(9) of the Supreme Court Civil Rules, B.C. Reg. 168/2009, which is the foreclosure rule and the order for sale rule. What was addressed to me in these proceedings, however, was a suggestion, broadly speaking, that the master erred in regards to two matters.
- [5] First off, it is alleged that the master erred when she failed to exercise her discretion to grant a further adjournment of the chambers application on March 30, 2021.
- [6] Secondly, it is alleged that the learned master erred in actually granting the vesting order for a number of reasons.
- [7] The order itself is before me. The order appears to have been amended and signed on the bench. It is uncertain to me, based on my copy of the order, as to what date the order was entered, but it looks very much like the order was entered on March 30, 2021. I only raise that point to note that the order has been entered.
- [8] In terms of procedural history from that date, on April 5, 2021, 102 B.C. Ltd. and Mr. Parmar filed their notice of appeal of the master's decision. On April 6, 2021, they appeared before Madam Justice Shergill of this court to request a stay. A stay was granted, but only granted to April 7, 2021. I note at this point that Mr. Joshi was not served with the order of Madam Justice Shergill, nor was he apparently notified of the appeal itself.

- [9] On April 7, 2021, 102 B.C. Ltd. and Mr. Parmar appeared before Madam Justice Marzari of this court. She granted a three-week stay to April 28, 2021. Again Madam Justice Marzari's order was not delivered to Mr. Joshi, and Mr. Joshi is, of course, the person most profoundly affected by both the appeal and the stay. He is the beneficiary of the vesting order.
- [10] Then something unusual happened, and it is this unusual occurrence which has given rise to the difficulty in this litigation. On April 15, 2021, for reasons which are uncertain to me, 102 B.C. Ltd. and Mr. Parmar offered, and the petitioner, Samra Enterprises Inc., accepted, a repayment of the mortgage amount. This was despite the fact that Samra Enterprises Inc. and their solicitor Mr. Richards had in fact advanced an application for a vesting order. It is despite the fact that these parties all knew there was a vesting order and must have known that it had some legal significance.
- [11] On April 27, 2021, a second unusual occurrence happened. Again, the stay ordered by Madam Justice Marzari on April 7, 2021 was set to expire the next day, April 28, 2021. On April 27, counsel for Samra Enterprises Inc., the lender, who had already been paid, wrote to the solicitor for Madan Joshi. In that letter he noted that the 21-day stay was about to expire the next day, and because it was going to expire, he sent over a signed vendor statement of adjustments, a signed certified vesting order, and a required letter to the Land Title Office, which, if operated upon, would have vested the property in Madan Joshi's name. Essentially, the solicitor, Mr. George Richards, knowing his client had been paid for his mortgage, continued to advance a fallacy that he would somehow be able to abide by the terms of the vesting order. Put another way, the effect of what he was doing in advancing these documents so as to facilitate a vesting order would have resulted in his client being paid twice, over \$2 million, although he deposes in an affidavit that that was in fact not his intention.
- [12] These circumstances that happened on April 15, 2021, and again on April 27, 2021, all lead to what can only be characterized, in a very non-legal term, as a real mess, a mess that most parties feel will be resolved by the overturning of the master's decision. I think they are right. If I was to overturn the master's decision, much of the problem created by 102 B.C. Ltd., Mr. Parmar, Samra Enterprises Inc. and their solicitor Mr. Richards, would be resolved. But that is not a basis to overturn a master's decision. In order to overturn a master's decision, and this is essentially a final order, the standard of review is one of correctness and the party who advances the appeal must show that the master erred, which brings me to another bizarre aspect of the appeal before me.
- [13] This appeal is advanced by 102 B.C. Ltd. and Mr. Parmar. They are appealing a decision of a learned master of March 30, 2021. The petitioner, Samra Enterprises Inc., Mr. Richards' client, brought on the application which resulted in the vesting order. It is Mr. Richards and his client who applied to the court for the vesting order and were successful in getting the vested order. In fact, my review of the transcript shows that they argued strenuously for the vesting order. When a compromise was suggested by counsel for Mr. Parmar and 102 B.C. Ltd., a modest delay to allow Mr. Parmar a couple more days to get his financing in order,

they argued further against that and how a further delay would be inappropriate.

- [14] Now Mr. Richards and his client, Samra Enterprises Inc., have the temerity to argue, after all of that, that the learned master erred in doing what she did. This is what they proposed, what they asked for in an application and what they insisted she do. They strenuously advocated that the master should grant the vesting order on March 30, 2021, and they argued on February 10 and 11, 2022 that she erred in doing so. This matter is, on very many levels, quite bizarre.
- [15] I turn to the learned master's reasons dated March 30, 2021. I would first point out that the learned master -- and this not relevant to any decision I have to make -- but the learned master, in my view, showed, to use a Biblical phrase, the patience of Job in dealing with what she had to deal with that day. No doubt the hearing, and certainly the reasons of the master, did not appear in open court because of COVID-19 concerns, but was done either on phone, by Zoom or by Teams. I suspect it was done by phone. During the hearing, the learned master heard from the applicant, Mr. Richards's agent, Mr. Iida; then she heard from Mr. Verma, who was counsel for 102 B.C. Ltd. and Mr. Parmar; then she heard from Mr. Parmar himself; then she heard from the second or third mortgage holder Ms. Pannu; then she heard again from Mr. Parmar; and then she heard again Mr. Verma, his counsel; and then she heard again from Ms. Pannu; and then she heard again a response from the applicant, Samra Enterprises Inc., Mr. Iida; and then she made her decision.
- [16] That is what I glean from the transcript of the reasons, and this is the reason for their invocation to the Biblical reference of the patience of Job. While giving her reasons, four paragraphs in she is interrupted by Mr. Parmar, again who is represented by counsel; 18 paragraphs in she is interrupted by Ms. Pannu; 39 paragraphs in, and this could only happen in the bizarre world of telephone justice delivery, someone named Mr. De Lange, a conveyancing solicitor for Mr. Parmar, in mid-reasons shows up on a call and starts talking.
- [17] With respect to all those people involved, that is not how court should happen. If this happened in a live courtroom the sheriffs might likely have been called. The master was treated most disrespectfully by Mr. Parmar, by Ms. Pannu and by Mr. De Lange. That segue, that digression being stated, I now turn to the decision itself.
- [18] In the decision, the learned master identifies the property, notes it to be two lots being developed as a duplex, but notes correctly that it has not been stratified, so it essentially can only be valued as one lot or one parcel. She notes that the order nisi was granted on March 6, 2019, a period of time two years prior to March 30, 2021. She notes that an order for conduct of sale was granted on September 26, 2019. In other words, the property had been available to be marketed for 18 months. She notes that there was an order sought earlier to approve sale. This was brought on September 30, 2020, about six or seven months prior to the time she was making her determination on March 30, 2021, and that order for sale was adjourned to allow Mr. Parmar and 102 B.C. Ltd. to continue their efforts to refinance the property. Then, almost seven months later, on March 23, 2021, the week before the hearing

before the learned master, the parties appeared before Master Keighley and it was then adjourned one week, and only one week, to allow the respondents 102 B.C. Ltd. and Mr. Parmar, to get their tackle in order.

[19] In para. 14, the learned master notes as follows:

Specifically, when the matter came before Master Keighley last week there were two competing bids, including an increased bid from the original offeror. Mr. Parmar appeared and said he would have refinancing in place within a week. As the matter proceeded today, there are now two competing bids plus the original offeror, meaning that there is one more party that has come to the table, and there is no evidence of being able to redeem today despite the extra week being given.

She also deals with the issue of appraisals, something which I will deal with in greater length later. She notes that there was advanced appraisal evidence, showing that the property, if stratified, which it was not, would be worth about \$2.8 million. I will come back to that later.

[20] There was before the master at the hearing affidavit evidence that around \$2.2 million is owing on the first mortgage, \$2.1 million to \$2.2 million with interest, and that there is over \$3.3. million in total financial encumbrances on the property, leading to the strong suggestion that this property might, in light of the appraisal evidence, be hard to refinance. That appraisal evidence before her is dated in October 2020. Again, this is appraisal evidence that if the property was stratified the property could be worth \$2.8 million. Of course, is not helpful because it is completely speculative. There was no evidence before the master at any time, that I can see, as to what it would take to stratify the property. Clearly there had been a *lis pendens* placed on the property which had prohibited, at least in part, its stratification earlier, but none of that was in real evidence before the master.

[21] Turning to the errors alleged. Again, the notice of appeal does not set this out to any great degree, but I am satisfied, and it was argued before me, that there were two general avenues of error alleged. The first is, as noted, that the master allegedly erred in not adjourning the matter for a further time. Secondly, she erred in ordering the sale, and that involves a consideration of the concept of marketing of the property, that involves a concept of appraisals and value, and it involves the concept of the respondent's desire and his hope to redeem the mortgage.

[22] In regards to the first error, the error of not adjourning the matter, adjournments are really a matter of discretion and an adjournment of an application might more properly invoke the test of an interim master's order, the requirement to show that the master was clearly wrong, but out of an abundance of caution I am going to apply to this argument of error a standard of correctness.

[23] In terms of the adjourning of the matter further, the master was clearly aware of the following: This property had been in foreclosure for two years; On September 30, 2020, there was a first application to approve sale, for a vesting order. This was adjourned to allow

the petitioner more time to try to refinance. The master is aware that it is now March 30, 2021. The matter had been reset to March 23, 2021, and adjourned for a further week, and still, on March 30, there is only a verbal representation before the master of efforts to refinance. So an application had been pending exactly six months.

- [24] There was simply, in my view, no evidence on which the master could have correctly or properly adjourned the matter. This foreclosure had, by this time, gone on much longer than usual. Clearly, the master learned concluded that in knowing since September 30, 2020 that the petitioner was anxious to sell the property to have his mortgage redeemed, Mr. Parmar and 102 B.C. Ltd. were being delay tacticians. In my view, it cannot be said that there was an error based on the facts found by the learned master in proceeding; or rather, in not granting a further adjournment. There was simply no evidence to warrant an extension of time, only a verbal promise.
- [25] The second aspect of an alleged error is that the master ordered the sale and in doing so did not properly consider what is viewed as a failure to market the property properly, what is viewed as problems with the appraisal evidence, and did not, in ordering the sale, properly consider Mr. Parmar and 102 B.C. Ltd.'s desire to redeem.
- [26] Here, the appellant applies to enter fresh evidence. A key decision on the issue of fresh evidence on appeal is a decision of *Tekamar Mortgage Fund Ltd. v. Hegel*, 2018 BCSC 1369, is a foreclosure proceeding where the facts are very similar, but what is important from this case is the summary in para. 23 about the test for admission of evidence in this type of a hearing:
- [23] The test for admission of fresh evidence is set out in *Palmer v. The Queen*, [1980] 1 S.C.R. 759 at 775. For fresh evidence to be admitted it must meet the following test:
- the evidence should generally not be admitted if, by due diligence, it could have been adduced at the hearing;
 - the evidence must be relevant in the sense that it bears upon a decisive or potentially decisive issue;
 - the evidence must be reasonably capable of belief; and
 - it must be such that if believed it could reasonably be expected to have affected the result.
- [27] Mr. Verma, on behalf of 102 B.C. Ltd. and Mr. Parmar, argued strenuously before the court that the court should accept, under the *Tekamar* test, Affidavits #s 2, 3, 4 and 5, of the appellant Mr. Parmar. In Affidavit #2, this is an affidavit that Mr. Parmar filed in support, it appears, of his stay application in the appeal itself. The information in that affidavit recounts his history of the ownership of the property and his contribution to it, not a relevant consideration before me on appeal or before a master generally in a foreclosure proceeding. He points out an appraisal of the property in October 2020, information that was before a master. He then points out two commitment letters which are attached to the affidavit, both

dated February 9, 2021.

- [28] In regards to those two letters, I allowed at the hearing the introduction of that fresh evidence, but that fresh evidence itself has its own problems. First off, I will say that it is odd that at least one, if not both of these documents, as will be seen soon, were in the hands of Mr. Parmar long prior to the chambers application on March 30, and yet it was never presented clearly to his lawyer, who could have put it in an affidavit - a very simple process. The first commitment letter is dated February 9, 2021. It appears to have been signed around that date. It is for \$1.2 million, not nearly enough to clear the mortgages of the petitioner. Of note, it expires on March 12, 2021. The second commitment letter, which is also dated February 9, is for \$850,000, getting close to the amount required to redeem, but it, too, expires on March 12, 2021; though, oddly enough, it was signed on March 29, 2021.
- [29] Although I accepted this evidence as fresh evidence, it does not, in my view, advance an argument very well for the petitioner. It is still not clear that these two documents could be viewed together as sufficient funding for a master, had she been informed of this, to rely on it as evidence of an ability to redeem. On the face of it, the \$1.2 million had expired. On the face of it one could argue that the \$850,000 commitment was still alive because it had been signed after its alleged expiry date, but that, in and of itself, is not clear.
- [30] Turning back to the issue of fresh evidence, I did not allow and would not allow Affidavits #s 3, 4 and 5, of the petitioner, because they all deal with circumstances which factually happened after March 30. In that regard, I repeat again the fourth aspect of the test in Tekamar, which is it must be such that, if believed, it could reasonably have been expected to affect the result. Circumstances that happened after March 30, 2021 could not have affected the result of a hearing on March 30, 2021.
- [31] Getting back to the grounds for appeal as I understand them, considering the fresh evidence that I have allowed, the second ground that the vesting order should not have been granted because of a failure to market the property properly, a failure to consider the appraisal evidence, and a failure to consider the ability to redeem, I will deal with those matters now.
- [32] In regards to the appraisal evidence, the master, in my view, correctly and effectively dealt with that argument in para. 16 of her reasons, where she writes:

The problem with the appraisals is, number one, that they are speculative in that they assume that the properties have been stratified, and while I accept that a strata plan has been submitted to the LTO and appears to have been rejected because of the CPLs, it is not entirely clear that a strata plan will be accepted once it is considered on its merits. Accordingly, there is some risk that it will not happen.

Noting correctly that a speculative appraisal is not evidence that a master can rely on, it was correct for the master not to consider speculative appraisal evidence.

[33] A second concern, failure to market the property. Before the master at that time was the usual evidence from a realtor, not in an affidavit form from the realtor him or herself, but attached to an affidavit. Again, this is the usual practice. That letter attached to an affidavit is a letter from Park Georgia Realty signed by Romeo Di Pietra, a realtor there, and it is dated February 12, 2021. It confirms that the property was listed for sale on April 6, 2020, a period of time then nine months prior to the hearing before the learned master. He notes that the property was listed for \$1.975 million, a price that was reduced on May 6 to \$1.6 million. He notes that this was a multiple listing, and we all know what that means, it is readily available for all realtors to show their clients. It was advertised 24 hours a day, he says on multiple websites, available to anyone who chooses to browse the internet. There is a sign on the property, there are pictures inside and out and there are floor plans on the website. He noted that the property was vacant and that to date he had received 40 inquiries and that there had been 25 showings, not an unrealistic number. In this letter, he then recounts the history of seven offers from April 11, 2020 through to July 6, six of those to July 6, 2020, all of which collapsed, with the seventh offer for \$1,900,500 being accepted by the seller, an offer which was later advanced to the court and bid up before the master to \$2.238 million.

[34] I am asked and invited to conclude, without evidence, that this marketing was somehow insufficient. Again, there is no contrary evidence advanced. Perhaps a fresh evidence affidavit could have been brought by a realtor if someone would have said that this was not a proper way to market this property, I do not know, but seeing this evidence, the detail in which it is, satisfies me, as it clearly satisfied the master, that the property had been effectively marketed and that the market had spoken.

[35] The master further noted at para. 27 of her reasons:

The opposing parties do not dispute the marketing history other than arguing that it should have been sold as two separate units, which could not be done until it is stratified. They do not point to any specific failing with the marketing undertaken.

[36] They argue now that there was a failing, but I do not find that speculation to be anything but that, speculation. Today they argue, without evidence, a failure to market effectively. There is no evidence, only submissions. They argue further that the court should conclude that from the time of the appraisal in October 2020 to March 30 that the property obviously went up in value, and yet there is no evidence advanced as to that.

[37] A third consideration under the inappropriateness of granting a vesting order, as I understand it, is that the learned master did not consider the ability of the respondents to redeem. I note that these inconsistent and potentially non-existent letters, which I have allowed in fresh evidence, were not before the master, but as I have noted earlier, they themselves are problematic in that they, on the face of it, do not have sufficient funds from those letters to redeem. The master was aware of the lengthy history of delay by Mr. Parmar, the fact that he had had by this point nine months to come up with something that resembled a redemption and he had not done so. He was simply asking, yet again, for more

time. I do not think in those circumstances that it can be said that the master erred in not accepting Mr. Parmar at his word that he would be able to come up with some financing, and, noting the history that she did and noting that at some point a petitioner should be entitled to proceed, she proceeded.

- [38] Considering the evidence before her, the learned master, as I will characterize it, concluded that there was nothing in the evidence advanced to defeat a patient lender's right to obtain the order he seeks. I note that there were three bidders, according to the master's reasons, and that the bidding had effectively raised the price over the offer well in excess of \$300,000. The offer accepted was \$2.238 million. To date, the only appraisal of the land is one unit suggested that the property would be worth about in the \$1.6 million range. There was a detailed long history of listing with numerous offers. There was substantial showings, 25 in total from April 2020 to January 2021. It was on websites 24 hours a day. There was a bidding process undertaken.
- [39] It cannot be said, in my view, with all those facts, that the master erred in granting the order she did. It cannot be said that she erred in proceeding that day. As such, based on all of what I have said, I have been unable to find that the master erred in any way and the appeal as such must be dismissed.
- [40] But, I am going to say more. The law related to the actions of the petitioner and Mr. Richards is clear in my view, and, oddly enough, despite not following the law, Mr. Richards, by late April 2021, was pointing out this law to Mr. Verma. That law is that once a vesting order is made there is no authority, none, no ability for a respondent to redeem the mortgage.
- [41] Though numerous cases say this, the case of *Farmers & Merchants Trust Company v. Church*, 1977 CanLII 312, is a decision of the British Columbia Supreme Court and was binding on the master, if it had been brought to her attention. It is binding, essentially, on me. It is binding on those who practice in this area. That case, relying on a decision of *Montreal Trust v. Brown*, 1974 CanLII 1108, a decision of the B.C. Court of Appeal, confirms at para. 7 the following:

The [W.W.R.] headnote in the case of *Montreal Trust Co. v. Brown* reads as follows:

"The courts of British Columbia have no jurisdiction to allow a mortgagor of lands to redeem after a judicial sale of the property under court order where no further confirmation is needed and the order provides for a vesting in the purchaser. . .

- [42] Despite being aware of this law, Mr. Richards facilitated an apparent payout by 102 B.C. Ltd. and Mr. Parmar a few weeks after the court, at his urging, had granted a vesting order. It is clear that Mr. Richards knew, at least a few weeks later, that that was contrary to the law, and why he did this is a great mystery. He has not come to court today or yesterday to explain this and he leaves it to the unfortunate Ms. Wong. Ms. Wong has had to bear the brunt of the court's concerns to deal with Mr. Richards' apparent actions on behalf of Samra Enterprise contrary to practice and contrary to law. Why he did what he did, which essentially has

caused the legal quagmire that his actions have created, is a mystery. It is an explanation perhaps, for he and his client's bizarre, if not unprecedented position, that he supports an argument that a master erred when the master acted on his and his client's application. The master acted when he and his client strenuously insisted that she act.

- [43] A final mystery on the facts is Mr. Richards' actions on April 27, 2021. This was the day before the then stay was to expire, the stay of Madam Justice Marzari. The bizarre act of forwarding documents signed by his client to facilitate the acting on a vesting order is inexplicable. The documents would have seen his client pay another \$2 million-plus for property when his client had already had their mortgage paid out. How he had the temerity to do this when his client has been paid, and, despite the representations in his affidavit that he did not have this intention, raises in my mind serious ethical considerations. What would he have done with the \$2 million? How, if he had received this, could he possibly have transferred the property and facilitated it? He could not, so why did he go through that charade?
- [44] As I said earlier in my reasons at the beginning, allowing this appeal would solve all sorts of problems for Samra, for Mr. Richards, for Mr. Parmar, for 102, for perhaps subsequent mortgage holders, but it would not solve the problem, of course, or deal with Mr. Joshi's concern. Mr. Joshi is someone who appeared before court and got the benefit of a vesting order which then could not be acted on. But, solving a problem is not good enough. It may seem logical for the court to do this to solve the vast majority of everyone's problems, but a master should not be found to have erred when they have not so as to solve problems later created by lawyers and parties. Appeals are only allowed when there is an error, and only then, and there is no error here.
- [45] In addition to dismissing the appeal, which I have done, I am granting on my own motion a further stay of this vesting order for 60 days. These are the reasons why. The vesting order may in fact be inoperative on its face. It is a complicated series of problems now. There is a vesting order, on its face having expired, with a mortgage to be removed that is no longer there, it is a problem. It is a total quagmire and I, quite frankly, do not know how that is going to be solved.
- [46] The second reason I am granting a stay is because counsel for 102 and Mr. Parmar, Mr. Verma, had wanted to advance an argument that the court should solve this problem by using its inherent jurisdiction. I did not allow him to make that argument, because frankly it was not pleaded. There was no notice of that argument in his appeal. Counsel may have a clever avenue available to make this argument. I do not know how, but there may be something out there. That is for him to decide, but I am going to give him the opportunity to do that, so that is a second reason why I am extending the stay for a further 60 days.
- [47] The final reason I am extending the stay for the further 60 days is that there are innocent parties here clearly adversely affected by what has happened. Those innocent parties, in my view, are the client of Mr. Van Netten, Tri City Capital; Mr. Thangaraja, who is a lien holder

who has filed subsequent to the bizarre actions happening in March and April 2021; and Mr. Ravi Gill, a mortgage holder who has also seemingly lent funds after the bizarre happenings in April 2021. I am, of course, not including in this Mr. Cheema, who has represented the former mortgage holder Mr. Bhangu, and Ms. Pannu, who has appeared in this matter representing herself. The Bhangu mortgage and the Pannu mortgage were affected by the vesting order and they are not, by any stretch of the imagination, innocent parties affected by bizarre actions in April 2021.

- [48] In regards to Tri City's Mr. Thangaraja, the lead holder, and Mr. Ravi Gill, the mortgage holder, they frankly may all have a claim against Mr. Richards and Mr. Parmar and 102 B.C. Ltd. Mr. Richards in negligence, as they may be adversely affected by his actions which were contrary to law in accepting the respondent's payout, and Mr. Parmar in perhaps fraud or deceit, depending on what representations Mr. Parmar made as to the title of the property. I note with interest that Mr. Van Netten, in his brief submissions to the court, advised the court that in granting the finance that his clients did they were unaware of the vesting order by Mr. Parmar and Mr. Parmar clearly knew of it. That may be defraud or deceit. It is certainly a material lack of disclosure not provided to a funder. For those three reasons, the stay is extended for a further 60 days.
- [49] Having said all that, and if I may be so bold as to suggest what has to happen here. Mr. Joshi has suffered a loss. It might be a modest loss, but it is a loss nonetheless. It is a loss of opportunity to make some money on a residential property that he could have bought almost a year ago for \$2.238 million. The reason he suffered a loss is because of the actions of Mr. Parmar and Mr. Richards and his client, Samra Enterprises Inc. These parties, Mr. Parmar, the numbered company, and Mr. Richards and his clients, Mr. Samra, would be smart, would be very smart if they have their counsel, or in Mr. Richards' case perhaps his insurer, try to settle this matter with Mr. Joshi. I urge them to consider that, because I firmly believe that the difficulty that this quagmire of improper action and this quagmire of difficult circumstances could no doubt result in many more years of litigation, and that is in no one's interest.
- [50] Having said that, I now turn to the issue of costs. Ms. Wong, I should tell you that I am inclined to order that Mr. Richards' clients pay some of the costs of this proceeding and I want to hear from you on that. What do you say?

[PETITIONERS' SUBMISSIONS ON COSTS]

- [51] THE COURT: Mr. Visram's client Mr. Joshi, Mr. Van Netten's client, Mr. Thangaraja and Mr. Gill, the two innocents as I have described them, are all entitled to their costs of this proceeding.
- [52] Mr. Cheema's client and Ms. Pannu can bear their own costs, but the petitioner, Samra Enterprises Inc., and I dare say perhaps their counsel should do this, but that is up to Samra, Samra and the respondents 102 B.C. Ltd. and Mr. Parmar are to share equally the costs of those four parties that I have noted. I am fixing each parties' costs for two days of attendance

at \$2,500, inclusive of disbursements and taxes, and those costs, \$2,500 jointly paid by Samra, 102 B.C. Ltd. and Mr. Parmar, are to be paid within 30 days, \$2,500 each to Mr. Visram's client Mr. Joshi, to Mr. Van Netten's client, to Mr. Thangaraja and to Mr. Gill.

"J.R. Groves J."

GROVES J.

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