

CANADA / JUDGMENT

Scotia Mortgage Corporation v. Doan

2017 BCSC 2506

COURT

Supreme Court of British Columbia

DECIDED

29 November 2017

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2017 BCSC 2506 Scotia Mortgage Corporation v. Doan IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Scotia Mortgage Corporation v. Doan, 2017 BCSC 2506 Date: 20171129 Docket: H21312 Registry: Port Alberni Between: Genworth Financial Mortgage Insurance Company Canada Petitioner And Scott Lawson Doan The Tenants of the Property Respondents Before: Master Dick Oral Reasons for Judgment In Chambers The Respondent S. Doan appearing on his own behalf: Counsel for the Petitioner: K. Locke (As agent) Place and Date of Trial/Hearing: Nanaimo, B.C. November 29, 2017 Place and Date of Judgment: Nanaimo, B.C. November 29, 2017

- [1] THE COURT: This is the petitioner's application for an order absolute with respect to this matter.
- [2] The order nisi was granted in October 2016, with a two-month redemption period. Conduct of sale was granted to the petitioner in December 2016. The amount outstanding as at October 28, 2016 was \$174,002.06 plus interest and costs. Unfortunately, the property has never been fully exposed to the market because Mr. Doan did not feel it was being priced appropriately.
- [3] What I am faced with is a recent appraisal that sets the market value of the property at \$178,000 as of August 4, 2017. That is in keeping with what Mr. Doan's realtors had indicated could be achieved on a sale back in August, September 2016.
- [4] In order for me to dismiss the application for the order absolute in this matter, Mr. Doan must satisfy the same test as if he was seeking an extension of the redemption period. That means he must satisfy me that, one, there is sufficient equity in the property to fully satisfy the obligations that are outstanding to the petitioner and, secondly, that there is a reasonable prospect of payment of those outstanding amounts. The onus is on Mr. Doan to satisfy both of those requirements.
- [5] I am not satisfied that, one, there is sufficient equity in this property to satisfy the obligations, nor two, that there is a reasonable prospect of payment of the outstanding amounts within a reasonable amount of time.

[6] Therefore, I will grant the terms of the order sought, so the order absolute will go in this matter. There will be no costs of this matter. "Master Dick"

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