

CANADA / JUDGMENT

The Owners, Strata Plan VR59 v. Schlieper

2021 BCSC 1997

COURT

Supreme Court of British Columbia

DECIDED

30 July 2021

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

2021 BCSC 1997 The Owners, Strata Plan VR59 v. Schlieper IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: The Owners, Strata Plan VR59 v. Schlieper, 2021 BCSC 1997 Date: 20210730 Docket: S208829 Registry: Vancouver Between: The Owners, Strata Plan VR59 Petitioner And Elfride Frieda Schlieper, The Estate of Elfride Frieda Schlieper and All Tenants and Occupiers of the Subject Lands and Premises Respondents Before: The Honourable Madam Justice Horsman Oral Reasons for Judgment In Chambers Counsel for Petitioner appearing by teleconference: P. Furtula Appearing on behalf of The Estate of Elfride Schlieper: Gunter Schlieper Place and Date of Hearing: Vancouver, B.C. July 30, 2021 Place and Date of Judgment: Vancouver, B.C. July 30, 2021

- [1] THE COURT: The respondents apply to set aside the order of Master Muir dated June 21, 2021, on the basis that they did not receive service of the petitioner's notice of hearing.
- [2] In the underlying petition, the Strata seeks to recover outstanding strata fees, special levies, and related charges from the respondents. As I understand the circumstances, the respondent Elfride Schlieper is the registered owner of the unit in question. The applicant, Gunter Schlieper, is Elfride's son and the executor of her estate.
- [3] The Strata has been attempting to recover the arrears since at least 2019. In March 2019, the Strata registered a lien against the property as permitted by the Strata Property Act. The Strata had difficulty locating Ms. Schlieper's next of kin. Eventually a skip tracer was hired who located Mr. Gunter Schlieper.
- [4] In March 2020, counsel for the Strata sent a letter to Mr. Schlieper to demand that the arrears be paid. When they were not paid the Strata filed its petition. It was personally served on Mr. Schlieper. He filed the response to petition on behalf of the respondents on September 28, 2020. The response to petition provided an address for service of 3822 Antwerp Lane in Vancouver.
- [5] The response to petition does not deny that the arrears are owing. Instead, the response to petition complains of the Strata's alleged non-compliance with various procedural requirements, its failure to provide Mr. Schlieper with Strata records he has demanded over time, and its failure to approve his proposed upgrades to the unit.

- [6] On June 2, 2021, counsel for the Strata sent a notice of hearing to Mr. Schlieper via ordinary mail to his address for service as permitted by Rule 4-2(2) of the Supreme Court Civil Rules. The notice of hearing set the petition down for hearing on June 21, 2021. Rule 4-2(4) provides that service by ordinary mail is deemed to be effected one week after the date of the mailing. On June 17, 2021, counsel for the Strata couriered the application record and index to Mr. Schlieper at the respondents' address for service along with an affidavit. The record from the courier company indicates this material was delivered on June 17, 2021. On the day of the hearing before Master Muir counsel for the petitioner further attempted to email Mr. Schlieper to provide dial-in information for the hearing and urge upon him the importance of attending.
- [7] In short, the petitioner served the respondents in accordance with the requirements of the Supreme Court Civil Rules.
- [8] The respondents did not appear at the hearing before Master Muir on June 21, 2021. Master Muir concluded on the material before her that there had been effective service and she granted the relief sought by the petitioner. The relief included judgment in the amount of \$9,540 in relation to the unpaid Strata fees, special levies, interest to date, along with the petitioner's legal costs and any further arrears accruing from the date of the order. If the respondents do not pay the amount adjudged to be owed within 30 days then the petitioner is authorized to sell the Respondents' strata unit.
- [9] Master Muir also ordered that the service of the petition material on Mr. Schlieper was deemed to be effective service on the estate of Ms. Schlieper.
- [10] Mr. Schlieper seeks to set aside Master Muir's order pursuant to Rule 4-7 of the Supreme Court Civil Rules on the basis that the notice of hearing did not come to his attention. Mr. Schlieper says he did not receive the notice of hearing by mail at his address and cannot offer an explanation as to why that might be so because it pertains to circumstances beyond his knowledge. In the course of the hearing this morning Mr. Schlieper acknowledged that he received the material sent to him via courier, although he says that he received it on June 19th and not June 17th. As I understand his submission he says he did not understand the significance of the material when he received it.
- [11] Mr. Schlieper appears to acknowledge that there are arrears owing in relation to the strata unit owned by his mother. As noted, he has a series of procedural complaints about the manner in which the strata has conducted itself. It is not clear to me how his complaints could impact the debt which is owed to the strata and which has been outstanding for more than two years.

- [12] Mr. Schlieper bears the onus of establishing that he was not aware of the hearing of the petition and that the setting aside of Master Muir's order is an appropriate remedy for any lack of notice. I am not satisfied that he has met that onus on the material before me. I find his explanation that he did not receive the notice of hearing to be implausible, particularly in light of his acknowledgement that he did receive the courier delivery that enclosed the petition record.
- [13] Furthermore, Mr. Schlieper has not articulated any meritorious defence to the petition worthy of investigation that would warrant the remedy of setting aside Master Muir's order. He does not dispute that arrears are owing to the Strata in relation to the respondents' unit. While he has a number of procedural complaints about the Strata, I cannot see how any of these complaints undermine the basic fact that the respondents owe money to the Strata. The debt has, to the Respondents' knowledge, been owed for a significant period of time and the Strata has had to undertake onerous and expensive steps to collect.
- [14] In these circumstances, in my view, it would not be in the interests of justice to grant the relief sought by the applicants.
- [15] For these reasons I dismiss the respondents' application to set aside the order of Master Muir. The petitioner is entitled to its costs of this application. "Horsman J."

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/sc/21/19/2021BCSC1997.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/the-owners-strata-plan-vr59-v-schlieper-2021>

Prepared on 29 October 2026 · Esheria