

02-Oct-17

REGISTRY

Form 67 (Rule 16-1(5))

No. H193823
NEW WESTMINSTER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

FORJAY MANAGEMENT LTD.

PETITIONER

AND:

0981478 B.C. LTD., MARK CHANDLER,
CANADIAN WESTERN TRUST COMPANY in trust,
HMF HOME MORTGAGE FUND CORPORATION, 625536 B.C. LTD.,
JAMES MERCIER, MORRIS KADYLO, URSZULA PIASECZNA,
U.S. BANK NATIONAL ASSOCIATION, BARAMUNDI INVESTMENTS LTD.,
CHARANJIT KAUR, SIMRAT VIRDI, MUKHTIAR SINGH NIJJAR,
MOHAN VILKHU, JASPREET SINGH KHATRA, AMANDEEP SINGH DHALIWAL,
NIRMAL SINGH CHOHAN, SAJAL JAIN, SUPARNA JAIN,
BABAL RANI BANSAL, SATPAL BANSAL, PARMINDER K. MANN,
LEENA JAIN, VASANT PATEL, 1074936 B.C. LTD., 1084165 B.C. LTD.,
1084164 B.C. LTD., 1084322 B.C. LTD., SURJIT KAUR PARMAR,
HARBHAJAN SINGH PARMAR, DALJEET KAUR GILL,
BHASHAM KAUR GILL, 812 CAPITAL HOLDINGS LTD.,
CATALYST ASSETS CORP., 0951019 B.C. LTD.,
WONDER MARBLE & STONE INC., INTECH PAY LTD.,
1086286 B.C. LTD., 1085537 B.C. LTD. and 1083516 B.C. LTD.

RESPONDENTS

RESPONSE TO PETITION

Filed by: Canadian Western Trust Company in trust and HMF Home Mortgage Fund Corporation (the "Petition Respondents")

THIS IS A RESPONSE TO the petition filed August 25, 2017.

PART 1: ORDERS CONSENTED TO

The Petition Respondents consent to the granting of none of the orders set out in Part 1 of the petition.

PART 2: ORDERS OPPOSED

The Petition Respondents oppose the granting of the orders set out in all of the paragraphs of Part 1 of the petition.

PART 3: ORDERS ON WHICH NO POSITION IS TAKEN

The Petition Respondents take a position on the granting of the orders set out in Part 1 of the petition and say that none of those orders should be granted.

The Petition Respondents say that the petition should be dismissed with costs in favour of the Petition Respondents.

PART 4: FACTUAL BASIS

1. The Petition Respondents agree with the facts set out in paragraphs 1-6, 8 and 12 of Part 2 of the petition. The Petition Respondents deny paragraphs 7 and 9-11 of Part 2 of the petition.
2. On July 12, 2017, the Petition Respondents commenced a foreclosure proceeding (the "Prior Foreclosure Proceeding") in the Supreme Court of British Columbia, Vancouver Registry, No. H-170343 naming the petitioner, Forjay Management Ltd. (the "Petitioner"), as a respondent.
3. The Prior Foreclosure Proceeding deals with same mortgage (the "Mortgage") and debt which is the subject matter of the petition and raises the same issues and, generally, seeks the same relief as that sought in the petition.
4. The particular facts relied on by the Petition Respondents are those set out in the petition in the Prior Foreclosure Proceeding including, in particular, the respective amounts owing to the Petitioner, on the one hand, and the Petition Respondents, on the other.

PART 5: LEGAL BASIS

1. The Petition Respondents say that it is an abuse of process for the Petitioner to have commenced this foreclosure proceeding in light of the ongoing Prior Foreclosure Proceeding.
2. The issues raised in the relief sought in the petition should be dealt with in the Prior Foreclosure Proceeding.
3. The Petition Respondents rely on rules 1-3, 9-5, 16-1 and 27-1 of the Supreme Court Civil Rules and the inherent jurisdiction of the court.

PART 6: MATERIAL TO BE RELIED ON

1. Amended Petition filed July 13, 2017 in the Prior Foreclosure Proceeding; and
2. Affidavit #1 of Ajay Soni made July 11, 2017 and filed in the Prior Foreclosure Proceeding.

The Petition Respondents estimate that the application will take 60 minutes.

Date: September 30, 2017



Signature of lawyer for the Petition Respondents, Canadian Western Trust, in trust, and HMF Mortgage Fund Corporation
Gordon G. Plottel

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