



SUPERIOR COURT OF JUSTICE – ONTARIO
Toronto Region

Court File No: CV-25-742739

Short Title:

██████████

v

██████████

Date Read: 11 May 2025

Hearing: ☒ Motion ☐ Case conference ☐ Pre-trial conference

Heard: ☐ In person ☐ Videoconference ☐ Telephone ☒ In writing

ENDORSEMENT

1. The plaintiffs bring this action against the defendants alleging that the defendants have fraudulently conveyed to themselves two properties owned by the plaintiffs.
2. The plaintiffs allege that the defendants carried out this fraud by fraudulently altering the corporate documents of the defendant 2855419 Ontario Inc. ("285"), owner of the two properties in question, on file with the Ministry.
3. On this motion brought on an urgent basis and in writing, the plaintiffs seek leave to register a certificate of pending litigation against the two properties in question.
4. The plaintiffs allege that in December 2021, they purchased a townhouse and a condominium in the name of 285. The condominium is located at 50 Bruyeres Mews, Unit 7, Toronto. The townhouse is located at 551 Carrville Road, Richmond Hill.
5. Prior to the purchase of the properties, the defendant ██████████ owned all of the shares of 285. In December 2021, ██████████ transferred those shares to 2787306 Ontario ("278"), ██████████ Holdco, as part of an involved debt repayment plan, as it is alleged that ██████████ owed ██████████ upwards of \$5,000,000 by that point.
6. ██████████ also resigned as the officer and director of 285 and ██████████ was elected and appointed in his place. The head office of 285 was changed to ██████████'s home address, 9251 Yonge Street, Suite 8-965, Richmond Hill.
7. Post closing, ██████████ then owned 100% of the shares of 278, which in turn owned 100% of the shares of 285. ██████████ either directly or through a further Holdco provided all the necessary funds to complete the purchase of the properties. He paid the deposits of \$200,000 and then provided \$1,326,397.84 to close the purchase of the townhouse and \$947,684.28 to close the purchase of the condominium.

8. For the last almost 3.5 years since the purchases, [REDACTED] he has paid all the mortgage payments and all the carrying costs, including property taxes and maintenance fees for both properties.
9. The plaintiffs allege that in mid March 2025, [REDACTED] learned that on 19 February 2025, [REDACTED] and his 77 year old father, the defendant [REDACTED] filed false documents with the Ministry backdated to 1 September 2024, removing [REDACTED] as the sole director and officer of 285, without his knowledge or consent, and installing 77 year old [REDACTED] as the sole director and officer. They also changed the head office address of 285 from home address to [REDACTED] home address, 207 Queens Quay West, Toronto.
10. After the defendants altered the Ministry records for 285, it is alleged that on 14 March 2025, with [REDACTED] purporting to be the sole officer and director of 285, they transferred title to the condominium from 285 to [REDACTED] himself. Two weeks later, on 1 April 2025, [REDACTED] granted a first mortgage to Robinson Buick to secure \$2,700,000.
11. 285 continues to own the townhouse but the plaintiffs are concerned that, as the defendants have allegedly taken over 285, they have full power to transfer the townhouse out of the plaintiffs' control at any moment.
12. In the statement of claim, the plaintiffs allege fraudulent conveyances with respect to the properties. In the alternative, the plaintiffs allege they continue to own the properties by virtue of an express, resulting and/or constructive trust. Specifically, they seek:
 - (a) a declaration that all corporate governance actions or measures, including the Fraudulent Condo Mortgage (later defined) and the Fraudulent Condo Transfer (later defined), taken after September 1, 2024, without the authorization of [REDACTED] or 278 Corp, are of no force or effect (paragraph 1(e) of the statement of claim);
 - (b) a declaration that the transfer of the property municipally described as 50 Bruyeres Mews, Unit 7, Toronto, Ontario, and legally described as PIN Nos. 76562-0006 LT, 76562-0323 LT, 76562-0383 LT and 76562-0421 LT (the "Condo"), from 285 Corp to [REDACTED] was fraudulent and void (paragraph 1(h) of the statement of claim);
 - (c) an order that 278 Corp is the beneficial owner of the Condo by virtue of an express trust, resulting trust, or constructive trust (paragraph 1(i) of the statement of claim);
 - (d) an order that [REDACTED] is the beneficial owner of the Condo by virtue of an express trust, resulting trust, or constructive trust (paragraph 1(j) of the statement of claim);
 - (e) an order setting aside the Fraudulent Condo Mortgage (later defined) and transferring title to the Condo back to 285 Corp from [REDACTED] (paragraph 1(k) of the statement of claim);
 - (f) a declaration that 278 Corp is the beneficial owner of the property municipally known as 551 Carrville Road, Richmond Hill, Ontario (the "Townhouse"), and legally described as 03215-1346 LT, by way of a resulting or constructive trust (paragraph 1(m) of the statement of claim); and Page 2 of 3

(g) a declaration that [REDACTED] is the beneficial owner of the Townhouse by way of a resulting or constructive trust (paragraph 1(n) of the statement of claim).

13. Each of these allegations, supported by the affidavit evidence of [REDACTED], as set out above, raises a triable issue as to whether the plaintiffs have a reasonable claim to an interest in the lands in question. A claim for fraudulent conveyance seeks a return of title to the lands to its proper owner. I am further satisfied that a declaration of a constructive, express or resulting trust is a possible remedy available at trial, and one that would establish a triable issue as to the plaintiffs' interest in land for the purposes of this motion (see *Avan v Benarroch* 2017 ONSC 4729, for example).
14. I am of the view that the court must exercise its discretion in equity, even at this stage, and look at all relevant matters between the parties. On the evidence before me, the equities favour the plaintiffs, who have paid all the consideration to date relating to the properties, and who, until a few weeks ago, owned of the properties, directly or indirectly. The purported fraudulent alteration of 285's corporate records and the subsequent change in ownership was made without their notice or consent. The plaintiffs have put forward a fulsome record and there is no evidence at this stage that the granting of the certificates of pending litigation would cause the defendants irreparable harm. They will have their opportunity to move to set aside the certificate of pending litigation, if they believe that action is warranted. Page 3 of 3
15. Order to go granting the plaintiffs leave to register a certificate of pending litigation against the condominium and the townhouse properties, per the draft order which I have signed.
16. The plaintiffs are to provide the defendants and all encumbrancers on the properties with a copy of the order and these reasons as expeditiously as possible.

Date: 11 May 2025



Digitally signed by
Karen E Jolley
Date: 2025.05.11
23:02:30 -04'00'-----

ASSOCIATE JUSTICE JOLLEY