

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Lew v. Bank of Montreal*,
2024 BCCA 64

Date: 20240220
Docket: CA49650

Between:

Karen Wai King Lew

Appellant
(Respondent)

And

Bank of Montreal

Respondent
(Petitioner)

And

Ming Shek Liu

Respondent
(Respondent)

Before: The Honourable Justice Griffin
(In Chambers)

On appeal from: An order of the Supreme Court of British Columbia, dated
February 5, 2024 (*Bank of Montreal v. Lew*, Vancouver Docket H-210219).

Oral Reasons for Judgment

The Appellant, appearing in person:

K.W.K. Lew

Counsel for the Respondent, Bank of
Montreal:

L.G. Yang

Place and Date of Hearing:

Vancouver, British Columbia
February 20, 2024

Place and Date of Judgment:

Vancouver, British Columbia
February 20, 2024

Summary:

Application for a stay of an order in a foreclosure proceeding. Held: Application dismissed. Leave to appeal has not been granted in relation to the order. The order in question dismissed applications to stay two orders for which appeals had already been taken and dismissed. The order also dismissed an application to cancel a certificate of judgment but no appeal had been taken from the judgment granted. As there is no merit to any appeal of the order in question, there is no basis for a stay application.

[1] **GRIFFIN J.A.:** Karen Wai King Lew is a respondent in foreclosure proceedings initiated by the Bank of Montreal (“BMO”) in April 2021 in respect of the property located on Waverley Avenue in Vancouver, British Columbia (the “Property”).

[2] Ms. Lew has filed a notice of appeal from the order of Justice Walker made February 5, 2024 (the “Walker Order”), and brings this application for a stay of the Walker Order pending appeal.

[3] I pause to note that in these reasons the title Associate Judge is used in replacement of the former title Master.

[4] The Walker Order dismissed the following applications of Ms. Lew:

- (1) for a stay of execution of the order of Associate Judge Robertson made April 28, 2022 for conduct of sale (“Robertson Order for Conduct of Sale”);
- (2) for a stay of the order of Associate Judge Bilawich made August 17, 2023 for vacant possession (“Bilawich Order for Vacant Possession”);
- (3) for cancellation of BMO’s certificate of judgment filed December 21, 2023 against the Property.

Procedural History

[5] It is worth providing a brief procedural history.

[6] An *order nisi* of foreclosure was made on September 2, 2021, finding that Ms. Lew had defaulted on the mortgage. BMO is the first mortgagee on the Property. Ming Shek Liu, Ms. Lew’s brother, commenced his own foreclosure proceeding on March 19, 2021 and was granted an *order nisi* with a redemption period of eight months. Ms. Lew has not paid to redeem the Property.

[7] In her current written application for a stay and throughout much of the related proceedings, Ms. Lew has raised an argument based on a theory that the former United States President Donald Trump enacted “laws” pursuant to a doctrine described as the *National Economic Security and Reformation Act* and *Global Economic Security and Reformation Act* [“NESARA/GESARA”] that cancelled all worldwide debt. The former US President did not enact any such law and in any event would not have authority to enact laws applying in Canada. Ms. Lew’s arguments have no merit and have been rejected by both the BC Supreme Court and this Court. I note that Ms. Lew did not repeat these arguments in her oral submissions before me.

[8] However, Ms. Lew did repeat scandalous, unfounded allegations against legal counsel for BMO and its representatives.

[9] The following is a brief chronology of the proceedings leading to the present stay application.

April 2021	BMO initiated foreclosure proceedings against Ms. Lew in relation to the Property.
September 2, 2021	Associate Judge Cameron made an <i>order nisi</i> of foreclosure finding Ms. Lew defaulted on the mortgage for the Property, and granted personal judgment against her.

March 3, 2022	BMO applied for an order granting conduct of sale after the redemption period set by the <i>order nisi</i> expires. Ms. Lew first raised her <i>NESARA/GESARA</i> argument in her response to this application.
April 28, 2022	Associate Judge Robertson ordered conduct of sale of the property to BMO, effective on May 26, 2022 (Robertson Order for Conduct of Sale). Ms. Lew appealed that order.
July 12, 2022	Justice Matthews dismissed the appeal of the Robertson Order for Conduct of Sale Order, in reasons indexed at: 2022 BCSC 1320 (the “Matthews Order”). Ms. Lew raised her <i>NESARA/GESARA</i> argument on that appeal. The judge rejected this argument and found that there was no basis on which to conclude that Associate Judge Robertson was clearly wrong or, as alleged, biased in her order. Ms. Lew filed a notice of appeal in this Court from the Matthews Order.
October 20, 2022	Justice Horsman dismissed Ms. Lew’s application for leave to appeal the Matthews Order and a stay of proceedings, in CA48421 (the “Horsman Order”).
January 6, 2023	Justice Frankel denied Ms. Lew’s application for an extension of time to file and serve the application book for her application to vary the Horsman Order.
January 31, 2023	Ms. Lew filed a notice of civil claim, re-arguing the <i>NESARA/GESARA</i> theory and alleging BMO as well as its solicitors in the foreclosure proceedings are stalking, trespassing, harassing, extorting, scamming, and trying to steal the Property and kill her.

February 15, 2023	Ms. Lew filed a notice of application in her civil action filed January 31, 2023, seeking a stay of proceedings of the Robertson Order for Conduct of Sale.
March 7, 2023	BMO applied for an <i>order absolute</i> of foreclosure. The application was adjourned generally and the bank has not pursued this application.
June 29, 2023	BMO applied for an order of vacant possession, which was adjourned generally until August 17, 2023.
August 17, 2023	On hearing BMO's application for vacant possession, Associate Judge Bilawich rejected Ms. Lew's <i>NESARA/GESARA</i> arguments and found it was clear from her submissions she had no intention of complying with the Robertson Order for Conduct of Sale. He ordered vacant possession by October 17, 2023 (Bilawich Order for Vacant Possession). Ms. Lew appealed that order.
October 13, 2023	Justice Blake granted a stay of the Bilawich Vacant Possession Order until January 7, 2024. This allowed time for the hearing of the appeal of the Bilawich Order for Vacant Possession.
November 6, 2023	Justice Wilkinson dismissed the appeal of the Bilawich Order for Vacant Possession in <i>Bank of Montreal v. Lew</i> , 2023 BCSC 1986 [<i>Wilkinson Reasons</i>]. Ms. Lew repeated her <i>NESARA/GESARA</i> arguments. The judge ordered that BMO was entitled to special costs. I understand that Ms. Lew has filed a notice of appeal from that order.

January 8, 2024	Justice Crossin dismissed Ms. Lew's application for a stay of the Robertson Order for Conduct of Sale and the Bilawich Order for Vacant Possession. Justice Crossin granted a 30-day extension of Justice Blake's stay order to allow Ms. Lew to bring an application for a stay to this Court.
January 12, 2024	Justice Gropper struck Ms. Lew's January 2023 notice of civil claim in its entirety. The judge ordered that BMO was entitled to special costs: <i>Lew v. Bank of Montreal</i> , 2024 BCSC 59 at para. 37 [<i>Gropper Reasons</i>]. I understand that Ms. Lew has filed a notice of appeal from the <i>Gropper Reasons</i> .
February 5, 2024	Justice Walker dismissed the stay applications for the Robertson Order for Conduct of Sale and the Bilawich Order for Vacant Possession. The judge also dismissed Ms. Lew's application to cancel the certificate of judgment registered against title to the Property. The present proceeding was filed as Ms. Lew's appeal from that order.

[10] I now turn to the present application for a stay of the Walker Order, filed by Ms. Lew in this Court on February 9, 2024.

[11] There are several problems with Ms. Lew's application for a stay of the Walker Order.

[12] Ms. Lew requires leave to appeal the Walker Order as it is a limited appeal order under the *Court of Appeal Rules*, s. 11(a)(ix) and 11(g), but she has not sought leave.

[13] Importantly, prior to the hearing before Walker J., Ms. Lew had brought previous appeals of the Robertson Order for Conduct of Sale and the Bilawich Order for Vacant Possession but she was unsuccessful.

[14] As I have set out above, the appeal of the Robertson Order for Conduct of Sale was dismissed by Matthews J.: 2022 BCSC 1320. Ms. Lew then filed an appeal from the Matthews Order in this Court. Her application for leave to appeal and for a stay of proceedings was heard on October 20, 2022 before Horsman J.A. and was dismissed.

[15] There was therefore no legal basis for Walker J. to stay the Robertson Order for Conduct of Sale.

[16] Ms. Lew also brought an appeal of the Bilawich Order for Vacant Possession. As I have outlined, that appeal was dismissed by Wilkinson J. on November 6, 2023: see *Wilkinson Reasons*. Ms. Lew filed an appeal from Wilkinson J.'s order in this Court but she has not proceeded with it. She has not met the timelines for prosecuting an application for leave to appeal from the Wilkinson J. order.

[17] Given these circumstances, Ms. Lew has not provided any viable argument that Walker J. made an error in failing to stay the Bilawich Order for Vacant Possession.

[18] As for Walker J.'s order dismissing Ms. Lew's application to cancel a certificate of judgment, Ms. Lew has not provided any viable argument that this order was in error. The judgment was granted by Associate Judge Cameron on September 2, 2021 and I understand no appeal was taken from that judgment.

[19] As mentioned, Ms. Lew has not sought leave to appeal the Walker Order and leave is necessary.

[20] The Court of Appeal can grant a stay pending the determination of leave to appeal, but the general practice is to hear both at the same time: *Melcer Estate v. Boxer*, 2020 BCCA 380 at paras. 23–24.

[21] The test for both a stay and a leave application require that there be some merit to the proposed appeal, in that it raises a serious question to be determined.

[22] Ms. Lew’s arguments have failed to demonstrate that there is any merit to her proposed appeal of the order of Walker J. As there is no merit to Ms. Lew’s proposed appeal, she also does not meet the test for a stay of proceedings.

[23] Furthermore, it is my view that it is not in the interests of justice to grant a stay. While I very much regret the position that Ms. Lew finds herself in, it is a result of her own conduct in these foreclosure proceedings. As described by Gropper J., Ms. Lew has attempted to forestall the foreclosure proceedings at every opportunity and by whatever means: *Gropper Reasons* at para. 37.

[24] I therefore dismiss the application.

[Discussion with parties re: dispensing with signature]

[25] **GRIFFIN J.A.:** The need for Ms. Lew’s signature on the form of order is dispensed with.

“The Honourable Justice Griffin”