

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Jeffries v. Bayfield Mortgage Investment Corp.*,
2024 BCCA 178

Date: 20240426
Docket: CA49772

Between:

David Brian Jeffries

Appellant
(Respondent)

And

Bayfield Mortgage Investment Corp.

Respondent
(Petitioner)

Before: The Honourable Madam Justice Fenlon
(In Chambers)

On appeal from: An order of the Supreme Court of British Columbia, dated
February 23, 2024 (*Bayfield Mortgage Investment Corp. v. Jeffries*,
Vancouver Docket H220525).

Oral Reasons for Judgment

The Appellant appearing in person:

D.B. Jeffries

No one appearing on behalf of the
Respondent

Place and Date of Hearing:

Vancouver, British Columbia
April 26, 2024

Place and Date of Judgment:

Vancouver, British Columbia
April 26, 2024

Summary:

The respondent foreclosed on the appellant’s mortgage in respect of real property. A contract for the property’s purchase and sale was entered into and the property was vested in the purchasers. The chambers judge dismissed the appellant’s appeal of the issuance of the vesting order. The appellant appeals the chambers judge’s order and seeks no fee status.

Held: Application dismissed. While the fees would cause the appellant undue hardship, the appeal is bound to fail. There is no basis for the appellant’s assertion that the document he tendered to the respondent would constitute payment of the mortgage debt.

[1] **FENLON J.A.:** The appellant, Mr. Jeffries, applies for no fee status in appeal CA49772.

Background

[2] The respondent, Bayfield Mortgage Investment Corp. (“Bayfield”), did not respond to the application. Bayfield loaned money to Mr. Jeffries in relation to his purchase of real property. After there was a default on the mortgage, Bayfield commenced foreclosure proceedings and obtained an order *nisi* which provided a possibility of redemption should a payment of \$579,858.20 be made. Bayfield said no such payment was made. A contract for purchase and sale of the property was entered into and on February 8, 2024, that property—formerly held by Mr. Jeffries—vested in the purchasers.

[3] Mr. Jeffries appealed the issuance of the vesting order on the basis that there was a redemption of the mortgage, because he provided Bayfield with what he described as a “Bonded Bill of Exchange Order”. This was a document stating that the Secretary of the United States Treasury must credit Mr. Jeffries’ Bayfield account with the amount due to redeem the mortgage. Bayfield did not accept this, or the other documents Mr. Jeffries provided, as valid payment. In reasons delivered on February 23, 2024, the chambers judge, Justice Brongers, declined to find that the Associate Judge’s decision to grant the vesting order was clearly wrong since there was no legislative or jurisprudential authority for the proposition that the “Bonded Bill of Exchange Order” document constitutes valid payment of a debt.

[4] On March 25, 2024, Mr. Jeffries appealed the order of Justice Brongers on the basis that the “Bonded Bill of Exchange Order” is a lawful payment and that the order for sale of the property should have been stayed.

[5] The order sought includes a number of forms of relief which I addressed with Mr. Jeffries during the hearing of this application:

1. To order the use of my I B O E made AUGUST 14 2023, and Registered Security made January 2024 as lawful payments, to settle all parties & render accounts.
2. To have the Agent Lawyers of Lindsay Kenny LLP submit these payments to the Bank service agent/securities intermediary/Canadian Treasury/Ministry of Finance CANADA.
3. All costs incurred by the new Purchaser SBA of Kelowna, court costs and fees of moving and storage, are to be covered by the Agents for Bayfield Mortgage Investment Corp.
4. Any balance left over from the payments are to be returned to the Estate DAVID BRIAN JEFFRIES Debtor Trust.
5. A level 3 Securitization Audit is required to identify all the mortgage fraud starting with CIBC whereby a full payment has already been received, and return the equities received by the Bank back to the Estate DAVID BRIAN JEFFRIES Debtor Trust to settle all parties and render accounts.

The Law

[6] Under Rule 85(4) of the *Court of Appeal Rules*, B.C. Reg 120/2022 [*Rules*], a justice of the Court may make an order that the court fees owed under Schedule 2 of the *Rules* are not payable where the justice finds that the appeal is not:

- (i) bound to fail,
 - (ii) scandalous, frivolous or vexatious, or
 - (iii) an abuse of the process of the court, and
- (b) the person’s payment of court fees under Rule 84 would cause undue hardship.

[7] As I mentioned during the hearing, Mr. Jeffries has satisfied the first part of the test. I am satisfied that the fees would cause him undue hardship. Nonetheless, the next part of the test must be met as well—I have to be convinced that this appeal is not bound to fail.

[8] Having reviewed the reasons of Justice Brongers and the notice of appeal, I am of the view that the appeal is bound to fail. There is no basis for the assertion that the document Mr. Jeffries tendered to Bayfield was lawful money of Canada that would constitute payment of the mortgage debt. As for the stay of the sale, the property has already been vested.

Disposition

[9] I would accordingly deny the application for no fee status. That does not mean Mr. Jeffries is not permitted to continue with the appeal—it means the fees must be paid if he is to proceed with it.

“The Honourable Madam Justice Fenlon”