

# COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Sabok Sir v. Hill*,  
2024 BCCA 279

Date: 20240725  
Docket: CA49960

Between:

**Manigeh Sabok Sir**

Appellant  
(Plaintiff)

And

**Kurt Hill**

Respondent  
(Defendant)

Before: The Honourable Madam Justice Fisher  
The Honourable Mr. Justice Voith  
The Honourable Madam Justice Horsman

On appeal from: An order of the Supreme Court of British Columbia, dated  
May 30, 2024 (*Sabok Sir v. Hill*, 2024 BCSC 924, Cranbrook Docket S30349).

The Appellant, acting on her own behalf:

M. Sabok Sir

Written Submissions received from the  
Appellant:

July 16, 2024

Place and Date of Judgment:

Vancouver, British Columbia  
July 25, 2024

**Written Reasons of the Court**

**Summary:**

*This appeal was referred to this division for summary determination under s. 21 of the Court of Appeal Act. The appeal is from the dismissal of an appeal from the order of a Provincial Court judge in a small claims trial. Held: The appeal is summarily dismissed. It is well-established that this Court has no jurisdiction to hear an appeal from the Supreme Court in a small claims proceeding.*

**Reasons for Judgment of the Court:**

[1] The appellant wishes to appeal the Supreme Court’s dismissal of her appeal from the orders made by a Provincial Court judge following a small claims trial. Her appeal was referred to this division for summary determination. The issue arising is whether this is an appropriate case for summary dismissal of the appeal on the basis that this Court has no jurisdiction to entertain it.

**Background****The Provincial Court trial**

[2] The appellant filed a claim in Provincial Court seeking damages from the respondent for his alleged mishandling of personal property that the appellant had left in his care. Section 3(1) of the *Small Claims Act*, R.S.B.C. 1996, c. 430, confers jurisdiction on the Provincial Court in what are commonly referred to as “small claims”, including claims for damages where the amount claimed is equal to or less than a prescribed amount (currently \$35,000).

[3] The appellant’s claim for damages was tried over five days in Provincial Court. On December 30, 2020, the presiding judge issued reasons for judgment dismissing the claim. On May 19, 2021, the judge issued his costs decision, ordering the appellant to pay the respondent’s costs.

**The appellant’s appeal to the Supreme Court**

[4] The appellant appealed the Provincial Court orders dismissing her action and awarding costs to the respondent to the Supreme Court. The appeal was brought pursuant to s. 5(1) of the *Small Claims Act*.

**Right of appeal**

5 (1) Any party to a proceeding under this Act may appeal to the Supreme Court an order to allow or dismiss a claim if that order was made by a Provincial Court judge after a trial.

(2) No appeal lies from any order of the Provincial Court made in a proceeding under this Act other than an order referred to in subsection (1).

[5] Section 12 of the *Small Claims Act* provides that an appeal under the *Act*:

- (a) may be brought to review the order under appeal on questions of fact and on questions of law, and
- (b) must not be heard as a new trial unless the Supreme Court orders that the appeal be heard in that court as a new trial.

[6] On appeal, the appellant argued that the Provincial Court judge made factual and legal errors, and that the trial was procedurally unfair. In reasons for judgment issued May 30, 2024 (indexed at 2024 BCSC 924), Justice Tindale dismissed the appellant's appeal and awarded costs to the respondent (the "BCSC Order").

**The appellant's appeal to the Court of Appeal**

[7] On June 24, 2024, the appellant filed a notice of appeal in this Court seeking to appeal the BCSC Order. The *Small Claims Act* does not authorize such an appeal; on the contrary, s. 13, which sets out certain powers of the Supreme Court on appeal of a small claims decision, precludes a further appeal:

**Decision**

13 (1) On an appeal, the Supreme Court may do one or more of the following:

- (a) make any order that could be made by the Provincial Court;
- (b) impose reasonable terms and conditions in an order;
- (c) make any additional order that it considers just;
- (d) by order award costs to any party to the appeal in accordance with the Supreme Court Rules.

(2) There is no appeal from an order made by the Supreme Court under this section.

[Emphasis added.]

[8] Section 13(2) of the *Small Claims Act* must be read in conjunction with s. 13 of the *Court of Appeal Act*, S.B.C. 2021, c. 6, which describes this Court's appellate

jurisdiction. Pursuant to s. 13(1) of the *Court of Appeal Act*, an appeal may be brought to this Court from (a) an order of the Supreme Court or a judge of the Supreme Court, or (b) in any matter for which jurisdiction is given to the court under an enactment of British Columbia or Canada. However, s. 13(3) states:

- (3) If another enactment of British Columbia or Canada provides that there is no appeal or a limited right of appeal from an order or matter referred to in subsection (1), that enactment prevails.

[9] By memorandum dated June 26, 2024, the Registrar of this Court advised the parties that the appeal had been referred to this division for summary determination under s. 21 of the *Court of Appeal Act*. Section 21 provides:

**Referral to court for summary determination**

- 21** (1) A justice or the registrar may refer an appeal to the court for summary determination if the justice or registrar considers that the appeal
- (a) is frivolous or vexatious, or
  - (b) can otherwise be dismissed on a summary basis.
- (2) On a referral under subsection (1), the court may dismiss all or part of the appeal if the court considers that the appeal meets the criteria set out in subsection (1) (a) or (b).
- (3) Before dismissing all or part of an appeal under subsection (2), the court must give the appellant an opportunity to make written submissions or otherwise be heard.

[10] The Registrar's stated reason for the referral was that the appeal appeared to be statute-barred by operation of s. 13(2) of the *Small Claims Act*, and, on this basis, met the criteria for summary dismissal under s. 21(1).

[11] As required by s. 21(3) of the *Court of Appeal Act*, by memorandum to the parties dated July 2, 2024, the division invited the appellant to provide written submissions as to why this appeal should not be dismissed summarily on the basis that this Court lacks jurisdiction to hear it. The appellant subsequently delivered written submissions objecting to the summary dismissal of her appeal.

**Discussion**

[12] This Court has held on many occasions that, in light of s. 13(2) of the *Small Claims Act*, and the other legislative provisions canvassed above, it has no jurisdiction to hear an appeal of an order of the Supreme Court made on an appeal

of an order of the Provincial Court following a small claims trial: see for example *Gokey v. Usher*, 2019 BCCA 470 at paras. 4–9; *Mohammed v. Hunyadi* (1995), 65 B.C.A.C. 230, 1995 CanLII 2809 (C.A.) at paras. 4–5; *Green Arms v. Shahabaldin*, 2023 BCCA 340 (Chambers) at paras. 31–36; *AAA Action Movers (2008) Inc. v. Walker*, 2021 BCCA 400 at paras. 13–16, leave to appeal to SCC ref'd, 39901 (17 March 2022). As explained in *AAA Action Movers (2008) Inc.*:

[16] These provisions [ss. 5, 12, and 13 of the *Small Claims Act*] establish a complete code as to a litigant's rights of appeal from an order made by a Provincial Court judge following a small claims trial. An appeal may be brought to the Supreme Court, but "no order of the Supreme Court made in appeal proceedings in a small claims action can be appealed to this Court": *Pour v. The Owners, Strata Plan BCS 2313*, 2014 BCCA 392 at para. 7.

[13] The appellant's written submissions do not address the jurisdictional issue. Instead, the appellant speculates that Justice Tindale, Supreme Court registry staff, and the Registrar of this Court have all been influenced and controlled in their actions and decisions by an unidentified third party. The allegations are not only scandalous and ungrounded, they are unhelpful to this Court in resolving the jurisdictional issue, which turns on the legislative provisions set out in this judgment, particularly s. 13(2) of the *Small Claims Act*.

[14] It is our view that this appeal can properly be dismissed summarily pursuant to s. 21(2) of the *Court of Appeal Act*. Section 13(2) of the *Small Claims Act* precludes a further appeal of the BCSC Order. Thus, pursuant to s. 13(3) of the *Court of Appeal Act*, this Court has no jurisdiction to entertain this appeal. This conclusion is amply supported by the authorities that we have cited.

### **Disposition**

[15] The appeal is summarily dismissed.

"The Honourable Madam Justice Fisher"

"The Honourable Mr. Justice Voith"

"The Honourable Madam Justice Horsman"