IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *McHugh v. Cameron,*
2024 BCSC 1873

Date: 20241010
Docket: S219882
Registry: Vancouver

Between:

Debbie McHugh

Plaintiff

And

Shawn Glen Cameron, Michelle Lynn Cameron also known as Michelle Lynn Ordowski, and Your Tiny Homes Inc.

Defendants

Before: The Honourable Justice Dion

Reasons for Judgment

In Chambers

Counsel for the Plaintiff:	N. Jones K. Tung, Articled Student
Appearing in person:	S. Cameron M. Ordowski
Place and Date of Hearing:	Vancouver, B.C. September 19, 2024
Place and Date of Judgment:	Vancouver, B.C. October 10, 2024

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Introduction

[1] By way of a notice of application filed September 6, 2024, plaintiff Debbie McHugh seeks to set aside a without notice order obtained by the defendants, Shawn Glen Cameron and Michelle Lynn Cameron, also known as Michelle Lynn Ordowski. Ms. McHugh also seeks an order that the defendants deliver up vacant possession of lands located at 705 Hoirup Rd, Vanvenby, British Columbia (the "Lands"), or in the alternative that the plaintiff's realtor be provided keys and locking combinations to access the property. Ms. McHugh also seeks an order that the defendants be found to be vexatious litigants. If Ms. McHugh is successful, she seeks special costs against the defendants.

[2] In their response to application, filed September 16, 2024, among other things, the defendants plead that the without notice order should not be set aside. They also plead that Ms. Ordowski continues to make progress in obtaining monies to satisfy monetary orders of the court, though they have appealed at least one of those orders.

Background proceedings

[3] The plaintiff hired the defendants, through their company, Your Tiny Homes Inc. (YTH) to build her a tiny home. She also gave them money for the purchase of appliances to be installed in the tiny home, and had other appliances delivered to the defendants for installation in the tiny home.

[4] These matters commenced on November 12, 2021, when Ms. McHugh filed her notice of civil claim. On December 3, 2021, she filed an amended notice of civil claim. In it, Ms. McHugh claimed breach of contract, fraudulent or negligent misrepresentation and unjust enrichment.

[5] None of the three defendants filed a response to Ms. McHugh's action. On May 31, 2022, Ms. McHugh obtained default judgment against the defendants, with damages and costs to be assessed.

[6] Ms. McHugh filed a notice of application on September 23, 2022, seeking to have her damages summarily assessed.

[7] On October 7, 2022, following a hearing to assess damages and costs, Mr. Justice Gaul noted at the outset that in failing to file a response to Ms. McHugh's action, and having a default judgment taken against them, the defendants were deemed to have admitted the facts pleaded in the amended notice of civil claim: see *McHugh v. Cameron*, 2022 BCSC 2405. In his Reasons, Justice Gaul found:

> [6] Ms. McHugh is a member of the Squamish First Nation and a resident of Squamish, British Columbia. For over 25 years she was employed with the Squamish First Nation. She retired in 2018 following an accident where she suffered a shoulder injury.
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> [7] As she received a payout of a portion of her pension, Ms. McHugh set out to purchase a small home for herself that would accommodate her physical needs.
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> [8] Your Tiny Homes Inc. ("YTH") is a company incorporated in British Columbia that is in the business of constructing, selling, and installing small or micro-sized homes commonly called "tiny homes". The individual defendants, Mr. and Mrs. Cameron, are the principals of YTH.
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> [9] In November 2019, Ms. McHugh contacted YTH about the possibility of purchasing one of its tiny homes. Ms. McHugh spoke with Mr. Cameron. He advised her that a partially constructed tiny home was available for purchase and that it would be completed and ready for delivery in January of 2020.

[8] In the result, no tiny home was ever delivered and no monies were ever refunded, though representations about imminent funding have been made by the defendants in subsequent court proceedings. Ms. McHugh called the police on September 8, 2021. She filed the within notice of application the following month.

[9] Justice Gaul also found, among other things, that Mr. Cameron and Ms. Ordowski's "lies and deceitful misrepresentations" constituted "constructive fraud" and "gross negligence". It is also worth noting the following further findings of Justice Gaul:

> [65] Moreover, the facts in evidence before this court convince me that the defendants, in particular, Mr. Cameron, repeatedly and intentionally lied to Ms. McHugh about the progress being made on the construction of her YTH tiny home.

> [66] Ms. McHugh is a senior citizen. She is also an Indigenous person who is struggling to secure a stable home for herself. The defendants knew this, yet they continuously misled her about the construction of her tiny home. The fact of the matter is, the defendants took Ms. McHugh's money, the Kitchen Appliances, and the Brick appliances, held on to everything for an extended period of time and delivered nothing in return.
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> [67] This is outrageous behaviour and mistreatment of a senior member of the community and it calls for an award of punitive damages.

[10] Justice Gaul ordered the defendants to pay to Ms. McHugh among other monies, special damages in the amount of $58.381.20, punitive damages in the amount of $4000.00 and aggravated damages in the amount of $20,000.00 (the Judgement): *McHugh v. Cameron*, 2022 BCSC 2405 at paras. 61, 64-73.

[11] In their within application response, the defendants submitted that Justice Gaul "awarded the plaintiff and (sic) absurd amount of money. Based ONLY the plaintiff's statements and comments."

[12] The defendants also continue to claim that they had no notice of Ms. McHugh's application to assess damages. In his reasons, Justice Gaul found they had sufficient notice of the application, but for reasons unexplained, they chose to essentially remain silent and ignore the situation until, at the last minute, they retained counsel in an attempt to address the application.

[13] Sometime between October and November 2023, Ms. McHugh registered the Judgement against title to the Lands, which are registered as owned by Ms. Ordowski. Ms. McHugh also filed an application under the *Court Order Enforcement Act*, R.S.B.C. 1996, c. 78 seeking court-ordered sale of the Lands to satisfy the Judgment. Nicola Mortgage Corporation is first in priority on title and Iesza Jessica Robson-Smith has a judgment in priority behind Ms. McHugh.

[14] On July 19, 2023, Ms. Ordowski and the plaintiff entered into a settlement agreement wherein Ms. Ordowski agreed to pay the plaintiff $55,000 (the Settlement Amount) from proceeds of a sale of the Lands to satisfy her portion of the Judgment (the Settlement Agreement), so that the plaintiff no longer needed to proceed with a court-ordered sale of the Lands under the *Court Order Enforcement Act*.

[15] On November 2, 2023, following a demand for payment on the Settlement Amount, Ms. Ordowski claimed that there was “no contract” and that she “did not agree to sell”.

[16] On November 28, 2023, the defendants filed a notice of appeal purporting to appeal Justice Gaul’s decision to another Justice of this Court (the Judgment Appeal), and on that same day, the Defendants filed a notice of application seeking to set aside the default judgment and the Judgment, with the net effect of seeking the same relief as the notice of appeal on the same grounds (the Set Aside Default Application).

[17] On December 12, 2023, Mr. Justice Tammen found that the Settlement Agreement is a valid and enforceable agreement, that Ms. Ordowski breached that agreement, and ordered her to perform her obligations owing under it. Justice Tammen provided the plaintiff with sole conduct of sale of the Lands (the Sale Order) and ordered special costs against Ms. Ordowski in the fixed amount of $3,500 payable forthwith.

[18] Pursuant to the Sale Order, Ms. Ordowski was obligated to permit any duly authorized agent of Ms. McHugh to inspect or appraise the Lands and the interior thereof.

[19] On January 11, 2024, the defendants filed a notice of appeal in respect of the Sale Order (the Sale Order Appeal) with the Court of Appeal. The notice of appeal has not been served on the plaintiff as of the date of the within hearing of September 19, 2024 and no steps have been taken in the Sale Order Appeal.

[20] On February 6, 2024, Mr. Justice Walker ordered that the Set Aside Default Application and Judgement Appeal be heard together in April 2024.

[21] On February 7, 2024, the defendants filed an application seeking a stay of the Sale Order (the Stay Application).

[22] On February 13, 2024, the plaintiff secured a one-day hearing on April 8, 2024 for the Set Aside Default Application and Judgement Appeal.

[23] On February 16, 2024, Mr. Justice Majawa ordered that the Stay Application be adjourned to February 23, 2024.

[24] On February 23, 2024, Ms. Ordowski sent an email to counsel for Ms. McHugh, stating that:

> I am writing to let you know that I got approved for the funds for Debbie and would like to move forward and out this all behind us its been extremely stressful on me. Are you able to write up an agreement and I can come in today and sign. In the agreement can you put in that Debbie cannot come after me anymore or my property on 705 hoirup road Vanvenby, or anything to do with me and remove the judgment from my credit. It will take me a few days to close and get the funds sent to you. I will email you the commitment letter of approval to show proof of the funds, its for 50,000 and I will personally send the other 5,000 which I can do right away once everything is signed. Please let me know if Debbie agreed to this. And we will cancel all our court applications today.

[25] Also on February 23, 2024, Madam Justice McDonald ordered the Stay Application dismissed by consent.

[26] On March 1, 2024, Ms. Ordowski advised the plaintiff that she was unable to obtain funds to pay the Settlement Amount.

[27] The Set Aside Default Application and Judgement Appeal did not proceed on April 8, 2024, as the Defendants had not filed their materials or otherwise taken steps to proceed with the hearing.

Attempts to Sell the Lands

[28] In or about April 2024, Ms. McHugh retained realtorTerry Lynds to sell the Lands on her behalf. Between May 1 and 24, 2024, Mr. Lynds made 12 attempts to contact Ms. Ordowski or Mr. Cameron to begin the sale process including emailing and calling them, leaving a letter at the Lands, and texting Mr. Cameron. In breach of the Sale Order, Ms. Ordowski never responded to Mr. Lynds' communication.

[29] On July 11, 2024, Greg Ero, Senior Mortgage Consultant at Dominion Lending, emailed counsel for the plaintiff to advise that he was assisting Ms. Ordowski and that he expected a loan to be funded within 60 days, however, no specific amount of funds was stated.

[30] On July 15, 2024, Ms. McHugh filed an application seeking vacant possession of the Lands.

[31] On July 30, 2024, Associate Judge Robinson ordered, among other things, that: (1) Ms. Ordowski forthwith contact Mr. Lynds, and facilitate a time for him to access the Lands and the interior thereof; and (2) Ms. Ordowski provide Mr. Lynds with keys and codes for keypads to access any locked buildings on the Lands (the Access Order).

[32] Ms. Ordowski initially failed to contact Mr. Lynds, in breach of the Access Order, and then made only perfunctory and inadequate attempts to do so after being prompted by counsel for Ms. McHugh.

[33] To date, Ms. Ordowski has not provided Mr. Lynds access to the interior of the Lands and has otherwise refused to comply with the Access Order. Further, in an intentional breach of the Access Order, Ms. Ordowski specifically instructed Mr. Cameron to refuse Mr. Lynds access to the Lands on August 14, 2024.

[34] Among the reasons Mr. Cameron told Mr. Lynds he could not access the Lands were that Mr. Lynds had been unresponsive to Ms. Ordowski and Mr. Cameron's attempt to meet. Upon the evidence, it is clear it was Ms. Ordowski who was unresponsive to the many attempts by Mr. Lynds to meet.

[35] Further, in another attempt to prevent Mr. Lynds' lawful access to the Lands, Ms. Ordowski and Mr. Cameron reported Mr. Lynds to the British Columbia Services Authority (the BCSA).

[36] The defendants have also reported counsel for Ms. McHugh to the Law Society of British Columbia.

[37] On August 14, 2024, counsel for Ms. McHugh wrote to Ms. Ordowski responding to her objections and again demanding that she provide Mr. Lynds with keys and access to the Lands. Ms. Ordowski made further perfunctory and inadequate attempts to do so, but then brought an improper without notice application to stay the Sale Order, while at the same time misleading Mr. Lynds as to her intention to comply with the Access Order.

Improper without notice application

[38] On August 21, 2024, Mr. Cameron and Ms. Ordowski filed a without notice application seeking, among other things, a stay of the Sale Order (the Improper Application).

[39] On August 22, 2024, Associate Judge Robertson varied the Sale Order to extend a stay that had previously expired to September 27, 2024, and stayed the Access Order, also to September 27, 2024.

[40] The Improper Application was not properly a without notice application. Among other things, there was no urgency as the Lands have not been listed for sale and no sale was imminent because Ms. Ordowski and Mr. Cameron have refused to grant Ms. McHugh's realtor access to the Lands.

[41] Moreover, Ms. Ordowski and Mr. Cameron failed entirely to provide full and proper disclosure to the court and, in fact, have misled the court on a number of key issues. Among those misrepresentations are that Ms. Ordowski did not advise the court that she had previously applied for a stay for the Sale Order but consented to the dismissal of that application, and did not advise the court of her prior representations regarding the imminent funding of the Settlement Amount.

[42] Further, Ms. Ordowski and Mr. Cameron improperly relied on the *Court Order Enforcement Act*, which has no application since the Lands are being sold pursuant to a conduct of sale order under the *Supreme Court Civil Rules,* B.C. Reg. 168/2009 (the "*Rules*").

[43] Ms. Ordowski and Mr. Cameron have at all times known the plaintiff is represented by counsel and knew the plaintiff was entitled to notice of the Improper Application.

[44] Ms. Ordowski did not respond to the requests by counsel for Ms. McHugh for copies of the underlying notice of application and affidavits which she relied on for the Improper Application.

Analysis

Should Associate Judge Robertson's Order be set aside?

[45] The plaintiff seeks to set aside the Robertson Order made pursuant to Rule 8-5(6) of the *Rules*, which permits the court to make an order without notice "in the case of urgency".

[46] On a without notice application, the applicant must show the utmost good faith and disclose all material facts. A material fact is one that may affect the outcome: *Max Power Security Services Ltd. v. Canadian K9 Detection Security & Investigations Ltd*., 2022 BCSC 234 at para. 27 ("*Max Power*").

[47] Pursuant to Rule 8-5(8) of the *Rules*, the court may vary or set aside an order that was made without notice.

[48] In deciding whether an order should be set aside on the basis that there was material non-disclosure, the court must consider the importance of the non-disclosed facts to the issue which were to be decided by the judge at the hearing: *Max Power* at para. 27.

[49] Not only was there no urgency to the Improper Application, but Ms. Ordowski and Mr. Cameron also did not bring the application in good faith since she did so in circumstances when she was representing to Mr. Lynds that she would meet him to arrange access to the Lands and was actively in breach of the Access Order. Moreover, Ms. Ordowski and Mr. Cameron failed entirely to disclose material facts that would have affected the outcome of the application.

[50] Among those facts was that Ms. Ordowski represented that she was in the process of securing financing to meet her obligations under the Settlement Agreement, when the last time she provided any information about even possibly securing potential settlement funds was in July 2024.

[51] Further, Ms. Ordowski and Mr. Cameron failed to give notice to other properly named respondents, Nicola Mortgage Corporation and Ms. Robson-Smith, who have an interest in the Lands and are affected by the stay of the Sale Order.

[52] Based on the evidence before me, I find the without notice application filed by Ms. Ordowski and Mr. Cameron was not urgent, was not brought in good faith, was made without disclosure of all material facts, and was made without any notice to properly named defendants.

[53] Pursuant to Rule 8-5(8), the order by Associate Judge Robertson made August 22, 2024, is set aside.

Should Ms. Ordowski and Mr. Cameron deliver vacant possession of the Lands?

[54] In the context of a foreclosure proceeding, this court has granted an applicant, who had previously been granted an order for conduct of sale, vacant possession of lands when the owner of the property refused to answer phone calls, letters, emails, text messages and the door when the applicant's agent sought to arrange for access to the property: *Bank of Montreal v. Lew*, 2023 BCSC 1986 at paras. 11-14.

[55] Our Court of Appeal affirmed this court's decision in ordering vacant possession, finding that the respondent had "attempted to forestall the foreclosure proceedings at every opportunity and by whatever means": *Lew v. Bank of Montreal*, 2024 BCCA 64 at paras. 16-17, 23.

[56] In a proceeding where conduct of sale is granted, the courts have a duty to ensure that the financial interests and the best possible price is realized for the

benefit of all the parties: *Addenda Capital Inc. v. 0781995 B.C. Ltd.*, 2016 BCSC 957 at para. 60.

[57] Pursuant to Rule 13-5(1), if in a proceeding it appears necessary or expedient that property be sold, the court may order that sale and may order a person in possession of the property or in receipt of the rents, profits, or income from it to join in the sale and transfer and deliver up the possession or receipt to the purchaser or person delegated by the court.

[58] Pursuant to Rule 13-5(5), a person having conduct of sale may apply to the court for further directions.

[59] Ms. Ordowski and Mr. Cameron have breached the Sale Order and Access Order by refusing to provide Mr. Lynds with access to the interior of the Lands or otherwise facilitate the sale of the Lands. To list the Lands and obtain the best possible price, the plaintiff's realtor may access the interior of the Lands. The conduct of Ms. Ordowski and Mr. Cameron indicate the Lands cannot be sold while they remain in possession.

[60] An order for vacant possession is necessary and appropriate in the circumstances. The Order Made After Application sought by Ms. McHugh is granted.

Should the Defendants be designated vexatious litigants?

[61] Ms. McHugh seeks a finding that the defendants are vexatious litigants.

[62] Pursuant to s. 18 of the *Supreme Court Act*, R.S.B.C. 1996, c. 443 (the "*Act*"), the court may order that a legal proceeding must not be instituted without leave of the court:

> **18** If, on application by any person, the court is satisfied that a person has habitually, persistently and without reasonable grounds, instituted vexatious legal proceedings in the Supreme Court or in the Provincial Court against the same or different persons, the court may, after hearing that person or giving the person an opportunity to be heard, order that a legal proceeding must not, without leave of the court, be instituted by that person in any court.

[63] The legal test under s. 18 requires that the applicant show that the proceedings are:

a) vexatious and that they are brought in the absence if objectively reasonable grounds; and

b) habitual and persistent and have continued obstinately in the face of protest or criticism: *Singh v. Nielsen*, 2017 BCSC 1876 at para. 3

[64] The characteristics typical of a vexatious proceeding include:

a) bringing one or more action to decide an issue which has already been determined by a court of competent jurisdiction;

b) where it is obvious that an action cannot succeed, or if the action would lead to no possible good, or if no reasonable person can reasonably expect to obtain relief;

c) actions brought for an improper purpose, including the harassment or oppression of other parties by multifarious proceedings brought for purposes other than the assertion of legitimate rights;

d) grounds and issues raised tend to be rolled forward into subsequent actions and repeated and supplemented, often with actions brought against the lawyers who have acted for or against the litigant in earlier proceedings;

e) failure of the person instituting the proceedings to pay the costs of unsuccessful proceedings;

f) persistently taking unsuccessful appeals from judicial decisions; and

g) in determining whether proceedings are vexatious, the court must look at the whole history of the matter and not just whether there was originally a

good cause of action: *Holland v. Marshall*, 2010 BCSC 1560 at para. 8, leave to appeal to BCCA ref'd, 2010 BCCA 579.

[65] The public policy underlying this section "gives the court the needed ability to control its own process. It enables the court to put into place an order to prevent a citizen or citizens from being subjected to an endless blizzard of litigation": *Holland v. Marshall*, 2010 BCCA 579 at para. 17.

[66] Section 18 applies to defendants and respondents in litigation, including in particular where a respondent has sought to frustrate the conduct of sale of lands by repeatedly bringing applications that were doomed to fail and which "improperly attempted to ensnare counsel": *Vancouver City Savings Credit Union v. Randhawa*, 2011 BCSC 1308 at paras. 7-11 and 16.

[67] On the evidence and submissions made before me, I find that the defendants have conducted themselves in a manner that seeks to frustrate the conduct of the sale by bringing applications that, had they fully disclosed material information, would have failed. They have shown that they will go to great lengths to seek to frustrate orders of this court.

[68] I find that a declaration that the defendants are vexatious litigants is required in the circumstances. Such order requiring leave for them to file further applications and notices of appeal is necessary and appropriate in this matter because:

a) the plaintiff cannot afford legal counsel and is relying on pro bono counsel to advance her claim and respond to applications, notices of appeal to this Court, and appeals to the Court of Appeal filed by the Defendants';

b) the Judgement Appeal and Set Aside Default Application are brought on the same grounds and have never been pursued by Ms. Ordowski or Mr. Cameron, despite the plaintiff specifically reserving a court date for the hearing of those matters;

c) the Judgement Appeal and Set Aside Default Application have no merit since this Court cannot sit in appeal of itself and the Set Aside Default Application has not been pursued expeditiously, or at all, and is moot in any event in light of the Settlement Agreement (as concerns Ms. Ordowski):

d) after not proceeding with the Judgement Appeal and the Set Aside Default Application on the date reserved for those hearings, Ms. Ordowski and Mr. Cameron apparently once again sought to set those matters for hearing in September by way of an Improper Application. By requisition, they have now been set down for hearing in November;

e) the Defendants already brought an application to stay the Sale Order and consented to a dismissal of that application and as such were estopped from bringing the Improper Application: *Khan v. Shore*, 2015 BCSC 830 at paras. 30–35; see also e.g. *Tham v. Bronco Industries Inc.,* 2017 BCSC 828 at paras. 198-199; *Greater Vancouver Water District v. SSBV Consultants Inc.*, 2015 BCSC 1349 at paras. 36-50; *Sahyoun v. Ho*, 2015 BCSC 2077 at para. 12.

f) the Improper Application was brought for an improper purpose, including in an attempt to legitimize Ms. Ordowski and Mr. Cameron's repeated breaches of court orders which entitle the plaintiff to sell the Lands;

g) the Improper Application was brought without notice to the plaintiff when Ms. Ordowski and Mr. Cameron knew or ought to have known they were required to give notice of that application;

h) Ms. Ordowski and Mr. Cameron have reported Mr. Lynds to the BCSA in an attempt to further forestall the plaintiff's lawful sale of the Lands;

i) Ms. Ordowski and Mr. Cameron have failed to pay any of the costs awards made against them;

j) Ms. Ordowski and Mr. Cameron have not served the plaintiff with the notice of appeal in the Sale Order Appeal or otherwise taken any steps in that appeal;

k) the plaintiff was made homeless by the conduct of the Defendants, and the Defendants' repeated filing of court documents to improperly delay the plaintiff's lawful enforcement of the Judgement continues to cause extreme prejudice to the plaintiff and has the sole purpose of improperly ensnaring counsel and the plaintiff; and

l) Ms. Ordowski and Mr. Cameron filed an application on September 19, 2024, the day of the within hearing seeking, in part, the same relief that is subject of the within application.

[69] I find that the defendants misunderstand the test to be applied to determine whether a litigant is vexatious. They submit that counsel for the plaintiff should be found to be vexatious. They refuse to accept judicial criticism of them and to comply with order of the court, while continually misrepresenting the facts to the court. They act habitually and persistently in the face of judicial direction.

Unsubstantiated allegations against legal counsel

[70] During the hearing on September 19, 2024, Mr. Cameron made what I find to be unsubstantiated allegations against the professional integrity of counsel for Ms. McHugh. They were much in the same vein as were contained in the application response filed by the defendants on September 16, 2024, that:

> 25. On more than one occasion the plaintiff counsel has lied to the courts and Altered exhibits for the favour of the Plaintiff and her claims (another Serious Miscarriage of Justice).

[71] I cautioned Mr. Cameron about making such statements against opposing counsel given he did not point to any evidence that substantiates his allegations.

[72] On September 7, 2024, in relation to the application I heard on September 19, 2024, Mr. Cameron wrote an email to plaintiff's counsel, another lawyer from his firm

who has acted in a limited way on the file and Ms. McHugh. In it, Mr. Cameron, refers to counsel of record's "sleazball actions and your lies you made to the courts and how you tampered with evidence. I would expect you resign before I state the following to a judge." He "suggests" that both counsel "take a clear step back – re-evaluate your situation you have been caught in and ask yourselves – is your licences, employment and name worth something to each of you?".

[73] Mr. Burns submitted that the intent of this email from Mr. Cameron was to stop the plaintiff from lawfully exercising her rights. I agree with Mr. Burns. But I also find that Mr. Cameron has fallen into what can only be characterized as outrageous conduct toward counsel. Notwithstanding Mr. Cameron's vitriolic email, Mr. Burns continued to respond to Mr. Cameron in a professional manner, subject to Mr. Cameron remaining civil, about the hearing scheduled before me on September 19, 2024.

[74] Judicial commentary on inappropriate conduct by self-represented litigants comes generally from decisions considering the imposition of special costs. This is perhaps unsurprising, given that such an award is intended to "chastise a party for reprehensible, scandalous or outrageous conduct": *Gichuru v. Smith*, 2014 BCCA 414 at para. 62, leave to appeal to SCC ref'd, 36221 (16 April 2015).

[75] This issue arose in *The Owners, Strata Plan LMS 3259 v. Sze Hang Holding Inc.,* 2016 BCSC 1808 at paras. 44–46, rev'd in part on other grounds 2017 BCCA 346, where the Court found the self-represented litigant:

> [44] Mr. Lam made a number of unsubstantiated allegations about legal counsel for the plaintiff, alleging that they "fabricated" evidence, "concealed" evidence and, most recently, falsified court document and fraudulently entered orders in this action. Mr. Lam continued to make allegations despite cautions from the court as to the seriousness of making allegations of this nature and that there could be costs consequences where there is no foundation for what was being suggested.
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> [45] The defendants adduced no evidence to support the allegations and, indeed, the photographic evidence shows Mr. Lam holding one of the documents he had claimed that counsel fabricated. I observe that the defendants had previously alleged wrongdoing on the part of the previous counsel for the plaintiff. In their proposed 2007 counterclaim it was alleged that plaintiff's counsel was complicit in breaking and entering into their units and in the 2005 statement of defence alleged that counsel

> was not acting in the best interests of the strata owners and failing to faithfully carry out his duties as counsel for the Strata.
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> [46] Unsubstantiated attacks on the professional integrity of a lawyer are worthy of the court's rebuke. As affirmed by the Court of Appeal in *Gichuru v. Smith*, 2014 BCCA 414 at para. 63, "a lawyer relies on his reputation for integrity. When that reputation is falsely assailed, the court's reproof should be felt". Such allegations have been found to merit special costs, even where the party is self-represented and indigent: *Leger v. Metro Vancouver YWCA,* 2013 BCSC 2021 at paras. 75-78. The Court of Appeal awarded special costs against the defendants for similar allegations in *The Owners of Strata Plan LMS3259 v. Sze Hang Holding Inc*., 2015 BCCA 424.
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> [Emphasis added.]

[76] In *Leger v. Metro Vancouver YWCA,* 2013 BCSC 2021 at paras. 76-77, Justice Pearlman provided a similar admonishment:

> [76] I find that there has been conduct on the part of the plaintiff deserving of the court's rebuke. In particular, the plaintiff has engaged in a persistent attack on the integrity of defendants' counsel. Her communications with the defendants in which she has threatened criminal investigations and her repeated ignoring of requests that all of her communications with the defendants be through defendants' counsel also merit rebuke.
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> [77] I take into account the fact that the plaintiff is not represented by counsel and that her experience in the conduct of litigation is limited. However, the plaintiff's status as a self-represented litigant is not a licence to conduct herself as she sees fit or without regard to the *Rules of Court* or to make unfounded allegations of misconduct against opposing counsel.
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> [Emphasis added.]

[77] Mr. Cameron's unsubstantiated attacks on the professional integrity of Ms. McHugh counsel is also worthy of rebuke. As a self-represented litigant, Mr. Cameron is still bound by the *Rules* and his misconduct against opposing counsel must be sanctioned by this Court.

Further application filed by the defendants

[78] The defendants served an unfiled notice of application on the plaintiff on September 18, 2024, by email. They filed the notice on September 19, 2024, the day of the hearing on the plaintiff's application.

[79] The application was made after the defendants were on notice of Ms. McHugh's application, seeking, in part that the defendants be found to be vexatious litigants.

[80] The relief Ms. Ordowski and Mr. Cameron seek is:

a) an order that the Stay Order made by Associate Judge Robertson be continued until after the application made by the defendant's on November 29, 2023, to be heard on November 18 and 19, 2024, and orders made on that hearing are enforceable by way of a final order;

b) that Ms. McHugh not be permitted to make further applications until there is a final order on "Set Aside Default Judgement Application(s)";

c) any monies paid into trust or otherwise by the defendant's to be held by the court and not to be distributed until a final order is made on or after the November 18 and 19, 2024 hearing;

d) that Ms. McHugh be required to attend the hearing on November 18 and 19, 2024 in person for "disclosure and cross examination";

e) that in relation to the notice of application filed on November 29, 2023, Ms. McHugh submit evidence and exhibits up until November 8, 2024 allowing the respondents sufficient time to file their response and any exhibits at the hearing on November 18 and 19, 2024; and

f) all parties must attend the hearing on November 18 and 19, 2024, with no adjournments permitted unless they are by consent or by order of the court.

[81] I have set aside Associate Judge Robertson's order. There is no basis plead in the application upon which the defendants can succeed on other relief sought by them.

[82] The application filed September 19, 2024 by Ms. Ordowski and Mr. Cameron is dismissed.

Orders

[83] Accordingly, I make the following orders:

a) An order that the order of Associate Judge Robertson, made August 22, 2024, be set aside.

b) An order that the defendants Shawn Glen Cameron and Michelle Lynn Cameron aka Michelle Lynn Ordowski shall deliver up vacant possession of the lands located at 705 Hoirup Rd, Vanvenby, British Columbia substantially on the terms set out in the order attached as Schedule A to this application.

c) A declaration pursuant to section 18 of the *Act*, that the defendants each are vexatious litigants in action S219882.

d) An order pursuant to Rule 22-9 of the *Rules* and section 18 of the *Act* that the defendants, and each of them, shall not file any applications or notice of appeal in the within action without first obtaining leave of the Court, except applications for leave to file such documents.

e) An order that any document filed by the defendants in contravention of this order is a nullity and that no party named as respondents need respond.

f) Special costs of the application against Mr. Cameron and Ms. Ordowski, payable forthwith.

"The Honourable Justice Dion"