

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Van Maren Financial (2018) Ltd. v.
Wolfenden Ventures Ltd.*,
2026 BCSC 1069

Date: 20260603
Docket: H240320
Registry: Vancouver

Between:

Van Maren Financial (2018) Ltd.

Petitioner

And

Wolfenden Ventures Ltd. and Daniel Alexander White

Respondents

Before: The Honourable Justice Chan

Oral Reasons for Judgment

Counsel for the Petitioner:

L.J. Marriner

Counsel for the Attendee, Mohamed Irfan
Vohra, Sayidakhatoon Vohra, and Douglas
Allan Zimmerer:

R.S. Atwal
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Representative for the CRO Holdings, LLC,
appearing in person:

A. Choudhri

Place and Date of Hearing:

Vancouver, B.C.
May 11, 2026

Place and Date of Judgment:

Vancouver, B.C.
June 3, 2026

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Introduction

[1] CRO Holdings, LLC (“CRO”) applies for an order staying two actions before the Court: a foreclosure petition (H240320) and a civil action for specific performance (S260419). Ali Choudhri, a representative for CRO, argues the B.C. actions should be stayed pending determination of a matter that is before the District Court of Harris County, Texas, U.S.A. (the “Texas Proceeding”). While CRO is not a party to either of the two B.C. actions, CRO appears to claim it stands in place of the debtor as CRO has effectively acquired all the debtor’s interest pursuant to an agreement. CRO argues the agreement contains a forum selection clause which requires all disputes to be litigated in Texas.

[2] The foreclosure proceeding relates to lands located on Beaverfoot Forest Service Road near Golden, B.C. and stretching to Lake Louise, Alberta (the “Lands”). The Lands span 162 acres and currently have rental cabins and saunas. I understand the Lands are commonly referred to as Beaverfoot Lodge.

[3] The registered owner of the Lands is Wolfenden Ventures Ltd. (“Wolfenden”). Van Maren Financial (2018) Ltd. (“VMF”) holds the first mortgage, registered on title to the Lands on September 16, 2019. Daniel Alexander White is the sole director of Wolfenden and guarantor of Wolfenden’s indebtedness to VMF.

[4] VMF commenced foreclosure proceedings on April 10, 2024.

The B.C. Proceedings

[5] On October 31, 2024, VMF obtained an *order nisi* with a four-month redemption period and a judgment against Wolfenden and Mr. White in the amount of \$2,490,552.41. I understand this amount remains unpaid. Specifically, the *order nisi* declares VMF’s mortgage “rank in priority to all of the right, title and interests in the Lands of Wolfenden and its successors and assigns and all persons claiming by, through or under them, and any interest in the Lands registered subsequent to (VMF)’s certificate of pending litigation in these proceedings”.

[6] On May 8, 2025, VMF obtained an order granting it exclusive conduct of sale of the Lands, with “any sale being subject to the approval of the Court unless agreed to in writing by all parties”.

[7] In August 2025, Douglas Allan Zimmerer made an offer to purchase the Lands in the amount of \$1.5 million. VMF made a counteroffer of \$2.5 million. There is a dispute between VMF and Mr. Zimmerer as to whether this counteroffer was accepted, withdrawn by VMF or rejected by VMF. Mr. Zimmerer’s position is he had accepted the counteroffer on August 30, 2025, while VMF argues the counteroffer had been withdrawn and was no longer available to be accepted.

[8] In any event, on October 2, 2025, VMF filed an application seeking to approve a sale of the Lands to another purchaser. A sealed bid process was conducted in court on October 20, 2025. Mr. Zimmerer, Mohamed Irfan Vohra, Sayidakhatoon Vohra and Gia Samaviti (the “Purchaser Group”) submitted a competing bid which was successful. The Court approved a sale of the Lands to the Purchaser Group for \$3,001,000.11.

[9] The sale was to complete on December 19, 2025. The Purchaser Group paid a deposit of \$150,000 to counsel in trust. By agreement, the completion date was extended to January 5, 2026, with the Purchaser Group paying a further deposit of \$135,000. However, difficulties arose with clearing the cheque and the Purchaser Group paid \$100,000 USD by wire transfer on December 29, 2025. The sale did not complete on January 5, 2026. The Purchaser Group’s position is the Lands had been extensively damaged. VMF’s position is pursuant to the contract of purchase and sale, the Lands are to be sold as is. The Purchaser Group commenced an action on January 20, 2026, seeking specific performance. VMF has filed a response and a counterclaim.

The MOU between CRO and Wolfenden

[10] CRO is a company incorporated in Wyoming, U.S.A. Mr. Chaudhri during the hearing described CRO as being in the business of distress acquisitions. Mr. Chaudhri deposed that on October 15, 2025, Mr. White on behalf of Wolfenden entered into a memorandum of understanding and assignment of interest to CRO (the “MOU”). Mr.

Chaudhri argues this MOU transferred all of Mr. White's interest in Wolfenden to CRO. The MOU contains a choice of law provision that the parties agree that any litigation about the MOU shall occur in Texas under the exclusive jurisdiction of the courts of Harris County, Texas. The MOU is signed by Mr. White, on his own behalf and on behalf of Wolfenden, and by an authorized agent of CRO.

[11] In the response filed by the Purchaser Group, Mr. Zimmerer is stated to be an authorized agent of CRO. Hence, CRO is related to Mr. Zimmerer and the Purchaser Group.

The Foreclosure Proceeding

[12] On January 12, 2026, VMF sought court approval for the sale of the Lands to another purchaser. As I understand it, Mr. Chaudhri appeared at the hearing as a representative of CRO. Associate Judge Peck referred the matter to judge's chambers.

[13] On January 26, 2026, a hearing was held before Justice Wolfe. VMF sought court approval for sale of the Lands to another purchaser. Mr. Chaudhri appeared at the hearing as a representative of CRO. Mr. Atwal appeared as counsel for the Purchaser Group. The Purchaser Group sought an adjournment of the hearing. One of the reasons for the adjournment was the Purchaser Group wished to conduct cross-examination of Mr. White on his affidavit sworn on January 22, 2026, on the issue of the insurance claim on the Lands and the damage to the Lands. Justice Wolfe granted the adjournment and ordered the cross-examination to be completed by March 13, 2026.

The Texas Proceedings

[14] CRO started an action against Daniel White and Van Maren Financial, Ltd. in the district court of Harris County, Texas, alleging breach of contract and breach of fiduciary duty. The original petition states "at issue is defendant Daniel White and defendant Van Maren Financial Ltd. repeated attempts to sell, transfer, or otherwise dispose of the property known as Beaverfoot without plaintiff CRO Holdings authority".

This filing does not have any action number. It appears to have been filed on January 26, 2026. It appears that a temporary injunction preventing the sale of the Lands was granted on February 5, 2026.

[15] In a filing on February 17, 2026, CRO sought an extension of the temporary injunction. The defendants in this filing are Daniel White and Van Maren Financial (2019) Ltd. The original injunction was extended to March 19, 2026. While CRO and the Purchaser Group refers to “further injunctive relief” being granted in the Texas proceeding, there is no evidence that is so.

[16] There is no reference in any of the filings that the Texas court was advised of the B.C. court orders, namely the *order nisi* and the conduct of sale order in favour of VMF. Further, I note while the names are similar, none of the entities named in the Texas proceeding is VMF, and VMF alleges it was never served with any pleadings from the Texas proceeding.

Position of CRO

[17] CRO seeks a stay of both B.C. proceedings, relying on the forum selection clause in the MOU and s. 11 of the *Court Jurisdiction and Proceedings Transfer Act*, S.B.C. 2003, c. 28 [CJPTA]. CRO argues both the foreclosure proceeding and the specific performance action ought to be stayed until the Texas court has determined the contractual issues between CRO and Mr. White and Wolfenden, including the validity and enforceability of the CRO’s “contract of purchase and sale” and the MOU between CRO and Mr. White; which party was in breach of the contracts; the rights and obligations of the parties under the contracts and the order of Associate Judge Vos of October 20, 2025; the priority of competing interests in the Lands; and the impact of the damage to the Lands on the parties’ rights and obligations.

Position of the Purchaser Group

[18] The Purchaser Group supports CRO’s application for a stay of both the foreclosure proceeding and its own action against VMF for specific performance. The

Purchaser Group argues it requires clarity as to who is the seller, be it Wolfenden or CRO.

Position of VMF

[19] VMF's position is there should be no stay, and this application is another attempt to delay the sale of the Lands.

[20] VMF argues CRO has no standing to bring this application; that the forum selection clause does not apply as VMF was not a party to the MOU; that even if the forum selection clause applies, the court ought not to stay the proceedings in favour of Texas; and that CRO has failed to show this Court ought to decline jurisdiction pursuant to s. 11 of the *CJPTA*.

Does CRO have standing to seek a stay?

[21] CRO is not a party to either B.C. proceeding. CRO argues it appeared in the last two court hearings in January 2026 and was granted audience by the court.

[22] VMF relies on Rule 21-8 of the *Supreme Court Civil Rules*, B.C. Reg. 168/2009 which permits a party served with an originating pleading or petition to apply to stay the proceeding on the ground the court ought to decline jurisdiction over the party. In this case, CRO was not served with the foreclosure petition or the notice of civil claim in the action for specific performance.

[23] CRO has not referred the court to any rule or case authorities where a non-party has relied on a forum selection clause or a *forum non conveniens* argument to obtain a stay of proceedings.

[24] In my view, CRO does not have standing to seek a stay of the B.C. proceedings on the basis that the Texas court ought to assume jurisdiction. Without clear authority, the court is not prepared to find a non-party can insert itself into other parties' proceedings and seek to stay them in favour of litigating in another court. CRO appeared at times to argue it can stand in place of Wolfenden, who is a party to these proceedings. However, it is not clear the interests of Wolfenden are the same as the

interests of CRO. Further, whatever rights the MOU may have bestowed on CRO, it is unclear those rights include the ability for CRO to control Wolfenden's litigation in B.C.

[25] With respect to CRO's attendance at the last court hearings, I note they were applications for court approval of sale of the Lands. In foreclosure proceedings, interested parties can attend and make bids at these types of hearings. I do not find CRO's appearances as an interested party or a potential purchaser allows it to make an application to stay these proceedings.

[26] On the basis of lack of standing, I find the application can be dismissed. Even if CRO had standing, I find the application ought to be dismissed for the reasons below.

Does the forum selection clause in the MOU apply?

[27] CRO relies on the forum selection clause in the MOU. CRO argues the court has a discretion to order a stay on the basis of a forum selection clause. The enforceability of a forum selection clause is governed by a two-part test. First, the party relying on the clause must show that it is valid, clear and enforceable, and that it applies to the action. Then the other party must show strong cause for the court to decline to enforce it: *Z.I. Pompey Industrie v. ECU-Line N.V.*, 2003 SCC 27 at para. 39; *Douez v. Facebook, Inc.*, 2017 SCC 33 at paras. 28–29; *Medicane Health Incorporated v. Bar Tal*, 2022 BCCA 95 [*Medicane*] at para. 19.

[28] In this case, VMF was not a party to the MOU which contains the forum selection clause. For a forum selection clause to apply, the case before the court must concern "the interpretation or implementation of the agreement in question": *Medicane* at para. 20, citing 2249659 *Ontario Ltd. v. Sparkasse Siegen*, 2013 ONCA 354 at paras. 46–47.

[29] The MOU was between CRO, Wolfenden and Mr. White. VMF was not a party to the MOU which contained the forum selection clause. VMF did not agree to litigate

disputes in Texas. As VMF was not a party to the MOU, I find CRO cannot rely on the forum selection clause in the MOU.

[30] The parties to the B.C. proceedings are different from the parties to the MOU. The foreclosure proceeding is between VMF, Wolfenden and Mr. White. The action for specific performance is between the Purchaser Group, VMF, Wolfenden and Mr. White. It is not sufficient for CRO to invoke the forum selection clause and point to some remote connection between the MOU and the dispute before the courts: *Medicane* at para. 20. A plaintiff is not bound by a forum selection clause to which it did not agree simply because its claim arises in the context of another party's contractual relationship that includes the clause: *Aldo Group Inc. v. Moneris Solutions Corporation*, 2013 ONCA 725 at para. 44.

Is there strong cause not to enforce the forum selection clause?

[31] Even if the forum selection clause applies, I find there is strong cause not to enforce it.

[32] VMF cannot enforce its mortgage in Texas. The Lands are located in B.C. B.C. courts have exclusive jurisdiction to adjudicate on the right and title to lands located in B.C.: *Tezcan v. Tezcan* (1987), 46 D.L.R. (4th) 176 at 4, 1987 CanLII 157 (B.C.C.A.); *Confederation Trust Co. v. Discovery Tower II Ltd.*, 95 B.C.L.R. (2d) 309 at paras. 16, 20, 1994 CanLII 2997 (C.A.).

[33] Further, this application for a stay was brought some two years after the foreclosure proceedings commenced. B.C. courts have already granted an *order nisi* and an order of conduct of sale. The debtor has not redeemed the mortgage and has not repaid the amount owing. VMF has applied to the court seeking approval for a sale of the Lands. The parties to the foreclosure proceeding are all located in B.C. The Purchaser Group wishes to purchase the Lands, which are in B.C.

[34] In these circumstances, I find there is strong cause not to enforce the forum selection clause, as the Texas court would not be able to adjudicate the rights to the Lands under the foreclosure proceeding or the action for specific performance.

Should the B.C. Court decline jurisdiction pursuant to s. 11 of the CJPTA?

[35] CRO also relies on s. 11 of the *CJPTA*, arguing that the B.C. court is *forum non conveniens*. A party seeking a stay on this basis must show the other forum is “clearly more appropriate”: *Club Resorts Ltd. v. Van Breda*, 2012 SCC 17 at para. 108. This is a high threshold: *Nordmark v. Frykman*, 2019 BCCA 433 at para. 72. Jurisdiction should be exercised once it is properly assumed, and the burden is on a party seeking to depart from this to show another forum exists that is in a better position to adjudicate the dispute fairly and efficiently: *Van Breda*, at para. 109.

[36] Section 11 of the *CJPTA* provides as follows:

Discretion as to the exercise of territorial competence

11 (1) After considering the interests of the parties to a proceeding and the ends of justice, a court may decline to exercise its territorial competence in the proceeding on the ground that a court of another state is a more appropriate forum in which to hear the proceeding.

(2) A court, in deciding the question of whether it or a court outside British Columbia is the more appropriate forum in which to hear a proceeding, must consider the circumstances relevant to the proceeding, including

- (a) the comparative convenience and expense for the parties to the proceeding and for their witnesses, in litigating in the court or in any alternative forum,
- (b) the law to be applied to issues in the proceeding,
- (c) the desirability of avoiding multiplicity of legal proceedings,
- (d) the desirability of avoiding conflicting decisions in different courts,
- (e) the enforcement of an eventual judgment, and
- (f) the fair and efficient working of the Canadian legal system as a whole.

[37] In my view, the Texas court cannot be said to be the more appropriate forum for the B.C. proceedings. The Texas court does not have jurisdiction to adjudicate on the title and rights to the Lands, which are the central issues raised in both the foreclosure proceeding and the action for specific performance.

[38] With respect to the factors in s. 11(2), in my view, none of the factors favour Texas. The parties are located in B.C. The Lands are located in B.C. The Purchaser

Group seeks to purchase the Lands in B.C. The applicable law is B.C. foreclosure law. With respect to the action for specific performance, the applicable law is B.C. contract law, as the contract was entered in B.C. and the subject matter is B.C. real estate.

[39] There is no prospect of multiplicity of proceedings, as the Texas court cannot adjudicate the interest in the Lands in the B.C. proceedings. There is no prospect of conflicting rulings, as the issues raised in the Texas proceeding are different from those in the B.C. proceedings. The orders to be granted in the B.C. proceedings will be enforced in B.C. as they relate to the Lands. The fair and efficient working of the Canadian legal system requires foreclosure proceedings with respect to B.C. lands and disputes about a court approved contract for sale in that foreclosure proceeding be determined in B.C.

[40] In my view, the Texas proceeding has no impact on the B.C. actions. The Texas proceeding is a dispute between CRO, Wolfenden and Mr. White. It appears to be a contractual dispute relating to the MOU. VMF is not a party to the MOU. If CRO believes it did not receive what it bargained for pursuant to the MOU, CRO can pursue that claim as against the other party in the MOU—Wolfenden—and its representative Mr. White.

[41] VMF's interest in the Lands has already been determined in the B.C. foreclosure action by the *order nisi* and the order for conduct of sale. These orders were made before the MOU was signed. These orders have not been appealed and cannot be challenged in the Texas court.

[42] While CRO argues the Texas court had issued temporary injunctions which prevent VMF from selling the Lands, I note those temporary injunctions have expired. There is no evidence of any current injunction from the Texas court. Further, I note the existence of the B.C. orders do not appear to have been brought to the attention of the Texas court.

[43] As the issues in the B.C. proceedings differ from the issue in the Texas proceeding, there is no possibility of conflicting rulings between the B.C. court and the Texas court.

[44] In my view, resolution of CRO's dispute with Wolfenden and Mr. White will have no impact on the foreclosure proceeding or the action for specific performance. I find there is no reason to stay the B.C. proceedings to allow the Texas court to determine the dispute between CRO, Wolfenden and Mr. White.

[45] CRO relies on *Quanta Services, Inc. v. Rokstad Power Corporation*, 2017 BCSC 1858 [*Quanta*], where the court determined Missouri to be the more appropriate forum and declined jurisdiction pursuant to s. 11(2) of the *CJPTA*: paras. 28–29. One of the defendants, Clifford Devine, had entered into a contract to provide technical training and support to Quanta. That agreement included a forum selection clause, requiring disputes arising from the agreement to be determined in Missouri according to the law of Missouri: para. 8. In addition to the breach of contract claim in Missouri, Quanta wished to proceed with a conspiracy claim against Mr. Devine and others, in B.C: para. 14. The court concluded the conspiracy claim against Mr. Devine in B.C. should be stayed: para. 53. The court found to succeed on the conspiracy claim, Quanta had to first establish the breach of contract. The claim for breach of contract was subject to the forum selection clause in favour of Missouri. In those circumstances, where the breach of contract claim against Mr. Devine had to proceed in Missouri, the court balanced the other factors and concluded it ought to decline jurisdiction and stayed the claim for conspiracy in B.C: para. 22.

[46] In my view, *Quanta* is distinguishable on the facts and does not assist CRO. Here, there is no forum selection clause to which VMF is a party. Further, the issues raised in the Texas proceeding and the B.C. proceedings are not intertwined. Whatever rights the MOU conferred as between CRO, Wolfenden and Mr. White have no impact on VMF's interest in the Lands, as determined by the *order nisi* and order for conduct of sale. The Texas court cannot adjudicate the foreclosure proceeding or the action for specific performance, which concern an interest in land in B.C.

The Submissions of the Purchaser Group

[47] The Purchaser Group supports CRO's application for a stay of both B.C. proceedings. As I understand it, the Purchaser Group argues the Texas proceeding is to determine the contractual issues arising under the MOU—including who has proper authority and standing to act for Wolfenden and to deal with the Lands. The Purchaser Group argues there are overlapping issues between the Texas Proceeding and the B.C. actions, including the validity and enforceability of the MOU and the transfer of a controlling interest in Wolfenden to CRO; who has authority and standing to act for Wolfenden in relation to the Lands; the priority of the competing interests in the Lands; and the impact of the damage on the Lands. As such, the Purchaser Group argues the contractual issues with respect to the MOU ought to be decided first by the Texas court to clarify who has authority to deal with the Lands.

[48] With respect, for the reasons above, I do not find there is any overlap between the Texas Proceeding and the B.C. actions. The *order nisi* has determined the priority of interests in the Lands. Specifically, the *order nisi* declares VMF's mortgage "rank in priority to all of the right, title and interests in the Lands of Wolfenden and its successors and assigns and all persons claiming by, through or under them, and any interest in the Lands registered subsequent to [VMF's] certificate of pending litigation in these proceedings". CRO, if it has any interest in the Lands, is as a successor of Wolfenden's interest. The *order nisi* declares VMF's interest ranks in priority to Wolfenden's interest and CRO's interest. It is unclear how the Texas court, who would not have jurisdiction over disputes about the Lands, can change that determination.

[49] The dispute about the validity and enforceability of the MOU has no impact on the foreclosure proceeding or the action for specific performance. CRO can litigate its dispute over the MOU in Texas. The impact of the damage to the Lands is one of the issues in dispute in the action for specific performance. Again, as the Purchaser Group seeks a remedy in relation to the Lands, the Texas court does not have jurisdiction over that claim.

Conclusion

[50] CRO's application for a stay of the B.C. proceedings is dismissed.

[51] Costs are awarded to VMF at scale B.

"Chan J."