

CITATION: 990 Bloor Street West v Amado, 2026 ONSC 2874
COURT FILE NO.: CV-26-00005811
MOTION HEARD: 20260515

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: 990 BLOOR STREET WEST LTD., Plaintiff

AND:

MARTIN AMADO, Defendant

BEFORE: Associate Justice L. La Horey

COUNSEL: Catherine E. Allen, Counsel for the moving party plaintiff

HEARD: May 15, 2026 in writing

ENDORSEMENT

- [1] The plaintiff brings this motion without notice for an order granting a certificate of pending litigation (“CPL”) with respect to property owned by the defendant and known municipally as 151 Buttonleaf Cres, Stouffville, Ontario (the “Existing Home”).
- [2] Pursuant to section 103 of the *Courts of Justice Act* and rule 42.01 of the *Rules of Civil Procedure*, the court may grant leave for the issuance of a CPL where there is an “interest in land” in question. A claim for a CPL must be included in a plaintiff’s statement of claim, and there must be a description of the land in question sufficient for registration. A motion for leave to issue a CPL may be made without notice. The plaintiff’s statement of claim issued on March 23, 2026, claims an equitable interest in the Existing Home, includes a request for a CPL and contains a legal description.
- [3] In *Perruzza v. Spatone*, 2010 ONSC 841 (Ont. S.C.J.) at para. 20, Master Glustein (as he then was) sets out the factors the court is to apply when deciding a motion to grant leave to issue a CPL.
- [4] Certificates of pending litigation are not generally granted as a form of security for damages. However, in this case, this is what the parties have agreed to in their contract. The plaintiff as vendor and the defendant as purchaser entered into an agreement of purchase and sale on or about April 13, 2023, as subsequently amended, (the “APS”) for the purchase of a condominium unit in a residential condominium building, located at the corner of Bloor Street West and Dovercourt Road in Toronto, Ontario, known as “Motto Condos.” The APS was entered into pre-construction.

- [5] It was a term of the APS that the defendant granted the plaintiff an equitable interest in his current home (the Existing Home) and consented to the registration of a CPL on the Existing Home in the event of his default under the APS.
- [6] Specifically, the APS provides at paragraph 16(b):
- The Purchaser acknowledges and confirms that some or all of the monies required to purchase the Dwelling will come from the sale of the property described as the “Purchaser’s Address” in the Tarion Addendum (the “Existing Home”). The Purchaser confirms that they have a beneficial ownership interest in the Existing Home. In the event the Purchaser is in breach of their obligations under this Agreement, the Vendor shall, by reason thereof, have an equitable interest in the Existing Home as security for the amounts owing to it under this Agreement. The Vendor shall be at liberty to register a Certificate of Pending Litigation against title to the Existing Home in order to preserve its said interest.
- [7] The Tarion Addendum to the APS identified 151 Buttonleaf Cres, Stouffville as the purchaser’s address.
- [8] The defendant signed a document called “Information for Buyers of New/Pre-Construction Condominium Homes” that recommended that the purchaser seek legal advice prior to signing the agreement of purchase and sale.
- [9] In considering the threshold issue of whether there is an “interest in land” on a motion for a CPL, the court is to determine whether there is a triable issue. It is not the court’s role to decide whether the plaintiff’s claim will likely succeed at trial (See the cases cited in *Suntower Developments Ltd. v. Studios of America Corp.*, 2023 ONSC 2703 at paragraph 24).
- [10] *Sundial v. Grewal*, 2026 ONSC 12, is an action by a developer, builder and vendor suing a purchaser for breach of an agreement of purchase and sale for a pre-construction home. The agreement of purchase and sale in that case included a clause very similar to paragraph 16(b) of the APS. In finding that the plaintiff had established an entitlement to an equitable mortgage, Justice Des Rosiers said that the purchasers “should be held to the bargain they struck” (at para 30).
- [11] In 2254069 *Ontario Inc. v. Kim*, 2017 ONSC 5003, Justice Peterson held that an equitable mortgage could constitute an interest in land that could support a CPL (at para 22).
- [12] The plaintiff has submitted the affidavits of Jeffrey Kansun, sworn March 23, 2026, and Leigh Pawlick sworn March 19, 2026. These affidavits provide evidence that the defendant breached the APS when he failed to pay the deposit owing and failed to complete the occupancy closing transaction.

- [13] Based on the evidence before me concerning the defendant's alleged breach of the APS and the term of the APS granting the plaintiff a beneficial interest in the Existing Home in the event of the defendant's breach of the APS and the right to register a CPL, I am satisfied that, for the purposes of this motion, the plaintiff has raised a triable issue as to whether it has an interest in the Existing Home.
- [14] The parcel register for the Existing Home confirms that the defendant is the sole registered owner.
- [15] I have very little information on the equities. However, I note that the APS specifically permits the registration of a CPL. Absent any other information, it would be equitable to permit the registration of a CPL to give effect to the parties' contract.
- [16] The motion is granted. I have signed the order.

L. La Horey, A.J.

Date: May 15, 2026