

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Lanyard Investments Inc. v. Royal Silver
Construction Ltd.*,
2026 BCSC 925

Date: 20260521
Docket: S261329
Registry: Vancouver

Between:

**Lanyard Investments Inc., as General Partner of
LFC Hast23 Limited Partnership**

Petitioner

And

**Royal Silver Construction Ltd,
Reza Khaniarani
Sevana Navasanian
Hasting & Madison Holdings Ltd.
Tyche Capital Corp.
John Doe
All Tenants or Occupiers of the Subject Lands and Premises**

Respondents

Before: Associate Judge Robertson

Reasons for Judgment

Counsel for the Petitioner:

J. Romanoski
C. Sidhu

Counsel for the Respondents, Royal Silver
Construction Ltd., Reza Khaniarani and
Sevana Navasanian:

J. Roberts

Place and Date of Hearing:

Vancouver, B.C.
April 23, 2026

Place and Date of Judgment:

Vancouver, B.C.
May 21, 2026

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Introduction

[1] This is the hearing of an order *nisi* in foreclosure by which the petitioner (“Lanyard”) seeks an order *nisi* on the standard terms including a six-month redemption period in respect of its first mortgage over vacant development lands located at 4269 Hastings Street, Burnaby BC (the “Subject Lands”).

[2] There is no dispute that:

- a) the mortgage and facility letter were executed by the mortgagor and/or covenators, namely Royal City Construction Ltd., Reza Khanianani and Sevana Navasanian (collectively the “Mortgagors”);
- b) The funds secured by the mortgage were fully advanced (\$3.9M) by Lanyard in accordance with the terms of the facility letter and the mortgage as between the Mortgagors and the petitioner, those funds being used to purchase the Subject Lands;
- c) there is a default under the terms of the mortgage;
- d) Lanyard is arm’s length from any of the parties involved;
- e) that the amount claimed to be due and owing in the statement of relief filed on April 17, 2026 (\$2,209,936.40, as of April 23, 2026) is due and owing, and secured by, the mortgage; or
- f) that the mortgage is a valid charge on the Subject Lands.

[3] Rather, the issue before the court on this hearing is whether claims made by the Mortgagors as against the vendor from whom they acquired the Subject Lands and the realtor that acted on their behalf in the sale that there was fraud in the purchase and sale process itself gives rise to a triable issue going to the root of the mortgage such that the matter ought to be converted to an action, or some other pre-trial process ordered consistent with *Cepuran v. Carlton*, 2022 BCCA 76 (“*Cepuran*”), prior to the order *nisi* being granted.

[4] The position of the Mortgagors is that further investigation is required to determine what role, if any, the petitioner played in the alleged fraud so that any such claims as against the petitioner can be fully advanced. The position of Lanyard is that this is nothing more than a fishing expedition based on mere speculation that the petitioner *may* have been involved, but notably with no specific evidence, or even a fully formed allegation, that the Mortgagors were involved.

[5] No specific application was filed to seek such relief. The position of the Mortgagors as to the triable issue was raised in the response to petition.

Background

[6] In their response to petition the Mortgagors outline their allegations against the vendor and realtor, and other collateral parties, and the history of their acquisition of the Subject Lands, as follows:

- a) The Mortgagors' realtor, Sam Abadian ("Mr. Abadian"), introduced the Mortgagors to the opportunity to purchase the Subject Lands.
- b) The negotiation process occurred during September and October 2023, during which the Mortgagor's relied on Mr. Abadian and had no direct contact with the vendor themselves.
- c) During the process several versions of contracts of purchase and sale were executed, leading to a final version dated September 23, 2023 based on a sale price of \$5.1M.
- d) On November 22, 2023, the Mortgagors received a new contract to sign for a purchase price of \$5.325M, which they did then sign (the "Final Contract").
- e) The Mortgagors "believe" that the fair market value of the Subject Lands was considerably less than the purchase price.
- f) Unbeknownst to the Mortgagors, Mr. Abadian never presented the Final Contract to the vendors and, instead, incorporated a numbered company that entered into a separate purchase contract with the vendor for \$4.0M,

and then mislead and/or fraudulently misrepresented to the Mortgagors that the numbered company had a right to a “pre purchased unit” that needed to be assigned to the Mortgagors as part of the closing transaction, meaning that \$1.35M of their purchase price had to be paid as an “assignment fee” to the numbered company. An assignment agreement addendum was then executed on December 22, 2023.

- g) In order to finance the acquisition of the Subject Lands, Mr. Abadian introduced the Mortgagors to a mortgage broker, who then assisted with their financing, which was ultimately undertaken by Lanyard.
 - h) When the sale of the Subject Lands ultimately completed, the full \$5.325M was paid by the Mortgagors towards the acquisition, \$3.9M of which was funded by Lanyard, \$1.0M being granted as a vendor take back mortgage with the vendor, and \$500,000 funded by another company with which Mr. Abadian was affiliated, Tyche Capital Corp. (“Tyche”).
 - i) The manner in which the financial transaction unfolded enabled \$1.35M to be paid to the numbered company with “some or all” of those funds being sent overseas (or, in some circular fashion which was not clear, funding the Tyche loan).
 - j) There is some indication that Mr. Abadian has admitted the transaction “constituted money laundering and tax evasion”.
 - k) Tyche has commenced an action on its loan.
 - l) The Mortgagors have filed a notice of civil claim against Mr. Abadian, the numbered company, Tyche and Mr. Abadian’s “girlfriend”, claiming damages for the tort of civil conspiracy and deceit and, in respect of Mr. Abadian, breach of his fiduciary duties as a realtor.
- [7] The only evidence filed by the Mortgagors that is specific to Lanyard’s involvement is the following as contained in the affidavit #1 of Mr. Kahnianani:

15. Mr. Abadian also introduced me to Michael Grudman of Axiom Capital Inc. to assist with obtaining financing for the Property purchase. I only met Michael Grudman once, in a zoom meeting where Mr. Beig and Mr. Abadian

were also present and more of the talking was done by them, not me. Mr. Grudman contacted Lanyard Financial Group (“Lanyard”) on my behalf and remained as the point-of-contact between Lanyard and I throughout.

...

20. On December 12, 2023, Mr. Grudman sent me a Facility Letter from Lanyard addressed to Royal Silver, care of Mr. Grudman, whereby Lanyard agreed to provide a loan to Royal Silver of \$3.9 million (the “Lanyard Loan”). The Facility Letter provided that the Lanyard Loan would be secured by a first mortgage over the Property and a second mortgage over my personal residence...

[8] In response, the petitioner’s agent deposed as follows:

8. The petitioner was introduced to the opportunity to provide the mortgage by a mortgage broker, Michael Grudman, and the petitioner had no dealings with a person called Sam Abadian in connection with the origination, underwriting or advancement of the Mortgage. ‘

9. To the best of my knowledge, the first occasion on which the petitioner heard from a person called Sam Abadian was in September 2025 when a person using that name contacted the petitioner, asserting that the Borrowers were in default under a loan agreement and providing notice of an interest registered against the property by way of a certificate of pending litigation.

[9] Although not in evidence or attached to an affidavit, the Mortgagors provided the court with an email that appears to have been obtained in the course of discovery in the fraud action. If it was obtained in that litigation, which was not clear, I was not taken to any agreement by which the implied undertaking of confidentiality was waived in respect of the document. In any event, the January 31, 2025 email exchange is between Lanyard’s controller and “Sam Abadian”, with respect to confirmation of receipt of post-dated cheques for three months’ of mortgage payments. The Mortgagors suggested that this email shows an inconsistency in Lanyard’s sworn evidence to support the contention that there is a triable issue to be investigated.

[10] Notably, however, the email states “it was a pleasure meeting you”, suggesting that they met for the first time in January 2025. As such, even if such evidence was admissible, it does not reasonably provide a basis on which it could be concluded that Lanyard was part of the alleged fraudulent conspiracy during the purchase of the Subject Property in November 2023.

[11] The Legal Basis on which the Mortgagors rely as set out in their response is as follows:

1. This Petition ought to be converted to an action, which will allow for a triable issue – the degree of Lanyard’s involvement (or non-involvement, as the case may be) in Abadian’s fraudulent conspiracy – to be assessed on a full evidentiary record. In the alternative, hybrid procedures should be employed within this Petition to achieve the same end, including document disclosure and, if necessary, examinations for discovery.
2. Only once the degree of Lanyard’s involvement (or non-involvement) has been established will it be possible to assess the validity of the Security and the underlying Land Facility. Among other legal doctrines that may invalidate the Security and Land Facility, it is trite that “fraud unravels everything”. Additionally, the law does not permit a plaintiff to profit from illegal conduct: *ex turpi causa non oritur action*.
3. Further, the two-part test for unconscionability may be satisfied:
 - (a) an inequality of bargaining power between Reza and Lanyard, in light of Reza's near total dependence on his realtor, Abadian, in whom he reposed total trust and confidence regarding the Transaction and Abadian's arrangement of the Land Facility; and
 - (b) a resulting improvident bargain, which was designed to provide Abadian and his co-conspirators with an unearned windfall of \$1.325M.
4. A finding of unconscionability in respect of a mortgage properly results in a "reopening of the transaction to take an account between the creditor and the debtor." The exercise is designed to vindicate the mortgagor's financial interests while not providing a windfall. The evidential /tactical hurdles with the mortgagee to show which, if any, portions of the mortgage were not unconscionable or otherwise tainted by fraud.

Analysis

[12] There is no dispute as to the law applicable to converting a foreclosure petition to an action, remitting it to trial, or ordering a hybrid process.

[13] The leading decision is *Freshwest Equities Trading Corp. v. Dosanjh*, 2015 BCSC 952, where the test, and evidentiary basis to meet it, was set out as follows:

[15] The court retains a discretion to order a trial of any *bona fide* triable issue that arises in a foreclosure proceeding: *Supreme Court Civil Rules*, Rules 22-1(7)(d) and 21-7(5)(k).

[16] The parties are agreed that the applicable test to be applied was summarized by me in *Griffin v. 0904713 B.C. Ltd.*, 2013 BCSC 273:

[30] There is no contest on this application as to the applicable test to be applied in respect of the application to refer the matter to the trial list. The test for conversion of a petition proceeding to an action is whether there is a *bona fide* triable issue that cannot be determined by reference to the documents and which would affect the outcome of the proceeding: *Boffo Developments (Jewel 2) Ltd. v. Pinnacle International (Wilson) Plaza Inc.*, 2009 BCSC 1701.

[31] In *Boffo Developments*, Madam Justice Ballance stated:

[48] The dominant principle is that the Court should exercise its discretion under the rule to convert a petition into trial where there is a *bona fide* triable issue that cannot be determined by reference to the documents, and would affect the outcome of the proceeding. A *bona fide* triable issue arises where on the evidence before the Court there is a dispute as to facts or law which raises a reasonable doubt or suggests there is a defence that deserves to be tried: *Douglas Lake Cattle Co. v. Smith*, 1991 CanLII 3954 (BC CA), [1991] B.C.J. No. 484 (C.A.). The threshold is, appropriately, a relatively low one.

[49] The authorities indicate a tendency of the Court to convert a summary process to a full trial where serious and disputed questions of fact or law are raised. ...

[32] The low threshold on an application for conversion to an action was discussed by Mr. Justice Barrow in *Canadian Western Bank v. 0777419 B.C. Ltd.*, 2009 BCSC 683:

[30] ...The evidentiary threshold on an application of this nature is very low. I must be satisfied beyond a reasonable doubt, or to a degree of certainty that approaches that standard, that the contention [of the Respondent] cannot be proven on a balance of probabilities. ...

[33] This test has been described in slightly different terms in the context of foreclosure proceedings, by stating that an order *nisi* will not be granted in summary chambers proceedings unless it is “manifestly clear” that there is no *bona fide* triable issue as to the entitlement to the remedy the petitioner seeks: *HGE Administrative Services Ltd. v. Perrick*, 2011 BCCA 308 at paras. 17-18; *Firststar Investment v. Ridgewood Development*, 2003 BCCA 660 at para. 2.

[34] The onus of demonstrating the absence of a *bona fide* triable issue falls upon the petitioners: *McCordic v. Hidden Rock Drilling Ltd. and 409060 BC Ltd.*, 2006 BCSC 1428 at paras. 22-23, citing *Firststar Investment* at para. 3. See also *HGE Administrative Services* at paras. 23-24.

[35] In attempting to decide whether to remit a matter for trial, the court is not permitted to weigh the evidence or undertake a detailed consideration of the merits: *McCordic* at paras. 19-21; *HGE Administrative Services* at paras. 19-20.

...

[41] What I take from the above cases is the *bona fide* issue must go to the root or foundation of the foreclosure action. Those foundational issues must relate to the validity of the mortgage, the ability of the mortgagee to

claim under the mortgage and commence the foreclosure, or the amount due and owing under the mortgage: see *TCC Mortgage Holdings Inc. v. Alysén Place Developments Inc.*, 2011 BCSC 383 at para. 15.

...

[37] A person alleging a *bona fide* defence must establish some evidentiary basis for that defence. **The corollary to this is that bald assertions will rarely be sufficient to raise such a defence. Further, some assessment of that evidence is necessary in order for the court to determine whether or not a bona fide triable issue has been raised and whether or not it is bound to fail.** In *Pacifica Mortgage Investment Corporation v. Laus Holdings Ltd.* 2010 BCSC 1904 at para. 17, aff'd 2013 BCCA 95, I stated:

[17] The cases suggest that some weighing of the evidence is necessary in order for the court to determine whether or not a *bona fide* triable issue has been raised. Depending upon the circumstances, a bold assertion may not be enough: see *Southeast Toyota Distributors Inc. v. Branch*, 1997 CanLII 2089 (BC SC), [1997] B.C.J. No. 1426 (S.C.) at paras. 60 to 63. At paras. 69 and 74 of *Branch*, the court found that when faced with issues concerning the interpretation of documents, the court was in a position to review the matter to determine whether there were any disputed facts or legal issues and whether a valid defence had been raised.

[14] More recently, in the *Bank of Nova Scotia v. Khoe*, 2021 BCSC 1153, the court summarized the law as follows:

[14] At this stage in the litigation, Ms. Khoe need not prove that either one of her defences would succeed. To avoid the Bank's application for order *nisi* and have the case referred to the trial list, it is sufficient for her to show that there is a genuine or *bona fide* triable issue going to the foundation of the Bank's claim; *HGE Administrative Services Ltd. v. Perrick*, 2011 BCCA 308 at para. 17. The foundational issues relate to the validity of the mortgage, the Bank's ability to claim under the mortgage and commence the foreclosure, and the amount due and owing under the mortgage; *Coast Capital Savings Federal Credit Union v. Arbutus Bay Estates Ltd.*, 2021 BCCA 185 at para. 33, citing *Griffin v. 0904713 B.C. Ltd.*, 2013 BCSC 273 at para. 41.

[15] The burden of demonstrating the absence of a genuine triable issue lies on the Bank; *Griffin*, at para. 34. The Bank can only succeed if the absence of a triable issue is "manifestly clear"; *Griffin*, at para. 33. Put another way, the evidentiary threshold faced by Ms. Khoe in arguing for the existence of a triable issue is very low; *Griffin*, at para. 32. The Bank's position has been analogized to that of the Crown in a criminal case in that it resembles the requirement of proof beyond a reasonable doubt; *Canadian Western Bank v. 0777419 B.C. Ltd.*, 2009 BCSC 683 at para. 30; *Coast Capital* at para. 30.

[15] In *Khoe* the borrower/mortgagor sought to have the foreclosure petition referred to the trial list as she alleged that she had been the victim of wrongdoing, in that the \$150,000 loan proceeds she had obtained from the petitioner, secured by a mortgage, were then improperly used by a third party that she lent the money to, who she alleged induced her to enter into the mortgage with no intention to repay the loan, such that she argued it was unconscionable.

[16] The court found that there was no evidence to establish a genuine triable issue as to her liability to the bank, there being nothing in the evidence to indicate the bank was put on an inquiry as to the possible undue influence being exercised by the third party (at para. 37).

[17] In its response, in this issue, the Mortgagors relied on Rules 16-1(18), 22-1 and *Cepuran*. The relevant provisions of *Cepuran* are as follows:

[158] It should be kept in mind that the starting point for those matters that are properly brought by way of petition is that the *Rules* contemplate that a summary procedure will be appropriate: *Conseil scolaire* at paras. 29–30. This is different than the starting point for an action. There should be good reason for dispensing with a petition's summary procedure in favour of an action. The mere fact that there is a triable issue is no longer a good reason.

[159] The modern approach to civil procedure, as encouraged in *Hryniak*, is to allow parties and the trial courts to tailor the pre-trial and trial procedures to a given case, in the interests of proportionality and access to justice, while preserving the court's ability to fairly determine a case on the merits. In my view, R. 16-1(18) and R. 22-1(4) work to reflect this modern approach within a petition proceeding.

[160] To summarize, I am of the view that a judge hearing a petition proceeding that raises triable issues is not required to refer the matter to trial. The judge has discretion to do so or to use hybrid procedures within the petition proceeding itself to assist in determining the issues, pursuant to R. 16-1(18) and R. 22-1(4). For example, the judge may decide that some limited discovery of documents or cross-examination on affidavits will provide an opportunity to investigate or challenge the triable issue sufficiently to allow it to be fairly determined by the court within the petition proceeding, without the need to convert the proceeding to an action and refer it to trial.

...

[162] ... It will be up to the courts to determine on a case-by-case basis whether a petition proceeding is suitable for adopting a hybrid procedure or should be converted to an action and referred to trial.

[18] *Cepuran* was decided in the context of there being factual issues in dispute, or triable issues, with the question being the effect of that dispute, namely should the matter be converted to an action, remitted to trial, or a hybrid process employed: see para. 48.

[19] The court found the latter to be an available remedy if appropriate, consistent with the Rules such as R. 16-1(18) which enables the court to apply any other pre-trial process to a petition proceeding, or R. 22-1(4) which allows for cross examination on affidavits. As noted in *Cepuran* at para. 153, it is not necessary to first convert the petition to an action to apply these rules, or employ a hybrid process.

[20] However, as noted in para. 158 cited above “there should be a good reason for dispensing with a petition’s summary procedure in favour of an action. The mere fact that there is a triable issue is no longer a good reason”.

[21] The parties do place emphasis on different principles, with the Mortgagors emphasizing the underlying fraud and evidence of such fraud as being sufficient to color every part of the acquisition, arguing that “fraud unravels everything”. As such, they say there is a justified or “good reason” to either convert to an action or compel an investigation through pre-trial processes, with the threshold for them to meet being low.

[22] The Mortgagors’ argument is phrased as follows in their response to petition:

The petition ought to be converted to an action, which will allow for a triable issue - the degree of Lanyard’s involvement (or non involvement as the case may be) in [Mr.] Abadian’s fraudulent conspiracy – to be assessed on a full evidentiary record. In the alternative, hybrid procedures should be employed within this Petition to achieve the same end, including document disclosure and, if necessary, examinations for discovery.

[23] Lanyard emphasizes that a triable issue must exist before the matter can be converted, or pre-trial procedures ordered, based on something more than mere speculation or innuendo, arguing that the position of the Mortgagors, to use the well known adage, puts the cart before the horse, it being akin to saying that the matter

should be converted to a trial so that the Mortgagors can see if they can then find a triable issue. Without more than mere speculation there can be no such finding in that reliance on mere speculation with the absence of any evidence is sufficient to establish the absence of a triable issue.

[24] *Cepuran* did not alter the requirement of a triable issue as a precondition to these available tools and, in a foreclosure context, a triable issue that goes to the root or foundation of the mortgage itself. It is only once such a triable issue is found that the question of whether the action must be converted to a trial is to be answered, with the requirement being that there is a good reason beyond the triable issue itself to justify such a conversion, or a referral to trial, rather than making use of a hybrid process specifically tailored to the issues in dispute.

[25] Here, there is notably no specific allegation that Lanyard was involved in the alleged fraudulent activity (counsel suggested that they were hesitant to make an overt allegation given the cost consequences with making unsubstantiated fraud allegations). For example, there is no allegation that Lanyard knew of any of the agreements outside of the \$5.325M contract of purchase and sale (only that one is referenced in the facility letter), namely the assignment contract, or the sale contract to the numbered company.

[26] The evidence as to fraud goes to the root of the purchase agreement. Lanyard is not a party to that agreement. There is no evidence before the court that Lanyard was involved in the sale transaction in any respect.

[27] To the contrary, there is evidence that Lanyard entered into this arm's length financing transaction on the basis of the \$5.325M contract of purchase and sale and an appraisal that roughly supported the sale price, receipt of which formed the conditions on which the financing was to be provided as indicated in the facility letter.

[28] In this respect, there are similarities to the case at bar to *Khoe* in that the court noted there that the mortgage transaction itself was not, on its face,

improvident (at para. 4), that the transaction which was the one subject to undue influence was not the mortgage, but the loan to the third party (at para. 24), and there was nothing in the evidence before the court to establish that the bank knew, suspected, or ought to have suspected that the statements made were false, even if the mortgage broker was implicated in them (at para. 29).

[29] The same can be said here.

[30] Even if fraud is found in the purchase of the Subject Land, and unravels the sale contract itself, and more likely the assignment agreement on the basis of unconscionability or some other basis raised by the Mortgagors, on the undisputed evidence before the court today the root of the mortgage remains unaffected, namely an arm's length advance of financing for the purchase of the Subject Lands that, on its face, appears commercially reasonable.

[31] Any argument that the fraud engaged in the purchase transaction could somehow taint the mortgage is, at this point, nothing more than speculation.

[32] Lanyard has met the onus upon it to establish that there is presently no triable issue which goes to the root or foundation of the mortgage.

[33] Having a matter converted to an action, remitted to a trial or a hybrid process ordered for the purpose of investigating whether a triable issue *may* exist is contrary to the summary process intended to be followed in petition matters in the first instance and the comments in *Cepuran* as to when the court should depart from that summary process.

[34] Speculation that something may be revealed if the summary process is ignored is not a sufficient reason, it is an impermissible fishing expedition.

Conclusion and Order Made

[35] The order *nisi* is granted as sought on the usual terms as set out in the statement of accounting, including the following:

- a) The mortgage is a valid and enforceable charge as against the Subject Lands in priority to the interests of the respondents;
- b) The amount to redeem the mortgage is \$2,209,936.40 as of April 23, 2026 (the “Redemption Amount”);
- c) The redemption period is six months, which I fix as of the hearing date of April 23, 2026, meaning it will expire on October 23, 2026; and
- d) Judgment is granted against the Mortgagors in the Redemption Amount.

[36] In the statement of relief sought, Lanyard seeks costs on a full indemnity basis, however the parties did not address it during argument. If Lanyard is seeking full indemnity costs, the parties are at liberty to seek 30 minutes before me for further argument on costs and, if they wish to enter this order before doing so, may include the term that Lanyard shall have its costs at a scale to be determined on further application. Otherwise, if agreed, the parties may submit the order *nisi* for entry with costs on Scale B.

“Associate Judge Robertson”