

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: CANNECT MORTGAGE INVESTMENT CORPORATION, Plaintiff/Defendant
to the Counterclaim

AND:

FAISAL AYUB RAJA, Defendant/Plaintiff by Counterclaim

BEFORE: Paul B. Schabas J.

COUNSEL: *Andrew Sahai and Pavan Pasha*, for the Plaintiff/Defendant by Counterclaim

Faisal Ayub Raja, self-represented

HEARD: April 17, 2026

REASONS FOR JUDGMENT

[1] The plaintiff seeks summary judgment on a mortgage. The defendant, Mr. Raja, admits he is in default and owes the money sought. However, the defendant has raised arguments asserting that the mortgage is unconscionable, that he was not given proper notice of the onerous terms if he fell into default, that there are technical flaws in the Notice of Sale, and that the plaintiff has breached its duty of good faith in performance of the contract.

[2] Both sides agree that the matter is appropriate for summary judgment and that there is no issue requiring a trial. The plaintiff seeks judgment for, among other things, the full amount of the mortgage, plus interest at the contractual rates, plus other expenses, charges and costs to which it is entitled under the mortgage. The plaintiff also seeks an order granting it vacant possession of the property. The defendant asks the court to set aside the mortgage as unconscionable.

[3] I agree that summary judgment is appropriate and find for the plaintiff.

[4] Mr. Raja, first obtained a second mortgage on his property from the plaintiff in 2019. This was renewed in 2020 and 2021.

[5] In June 2022, Mr. Raja sought to renew his mortgage again with Cannect. He was provided with several financing options. Mr. Raja is well-educated, has experience with mortgages, and was represented by counsel at the time. Mr. Raja had several discussions with Cannect regarding the terms of the mortgage which were agreed to in the fall of 2022, and the mortgage was registered on title in January 2023.

[6] The terms of the mortgage include:

- (a) principal in the amount of \$263,000;
- (b) interest rate of 11.04% per annum for the first twelve months of the eighteen-month term;
- (c) interest rate of 21.99% per annum for the remaining six months of the eighteen-month term;
- (d) repayment through monthly "interest only" payments;
- (e) the full principal was due on July 17, 2024; and
- (f) incorporation of Standard Charge Terms by reference.

[7] As of February 17, 2024, Mr. Raja was in default. Cannect accommodated Mr. Raja allowing him to make partial payments while he sought refinancing. The mortgage matured on July 17, 2024. Again, Cannect extended the date for full payment. However, no payments have been made since May 2024.

[8] Mr. Raja has repeatedly acknowledged his obligations under the mortgage, and the interest rates, including in the partial payments made by him. In this action, when examined, Mr. Raja admitted he owes the amounts sought for principal and interest.

[9] On September 17, 2024, Cannect delivered a Notice of Sale and Notice to enforce security under the *Mortgages Act*. Subsequently, it commenced this action.

[10] On its face, the mortgage is valid. Funds were advanced to Mr. Raja that were secured by the mortgage. Mr. Raja had independent legal advice, and signed an acknowledgement and direction, a certificate of independent legal advice, a confirmation regarding mortgage terms, and an acknowledgment regarding standard charge terms.

[11] Mr. Raja claims the mortgage is unconscionable, and that he was under duress and in an unequal bargaining position which was taken advantage of by Cannect.

[12] However, the evidence does not support the application of the doctrine of unconscionability. The essential elements of unconscionability are inequality of bargaining power and an improvident bargain: *Uber Technologies Inc. v. Heller*, 2020 SCC 16, [2020] 2 S.C.R. 118 at para. 64.

[13] The Court of Appeal has listed four elements to consider in establishing unconscionability: (1) a grossly unfair and improvident transaction; (2) a lack of independent legal advice or other suitable advice; (3) an overwhelming imbalance in bargaining power caused by the victim's ignorance of business, illiteracy, ignorance of the language of the bargain, blindness, deafness, illness, senility, or similar disability; and (4) the other party knowingly taking advantage of the vulnerability: *Titus v. William F. Cook Enterprises Inc.*, [2007 ONCA 573](#), 284 D.L.R. (4th) 734 at para. 48.

[14] None of the four elements are established on the record in this case.

[15] The transaction is a straightforward mortgage. Although the interest rates are high, they are not criminal, and it was for a second mortgage which carries more risk for the lender.

[16] Mr. Raja had legal representation and consulted with his lawyer before signing the mortgage. He has asserted that in the past “some legal advice” was “apparently not independent during some of the renewals.” However, the evidence demonstrates that he appointed his own lawyer, he told Cannect he was consulting with his lawyer about the terms, and he acknowledged the legal advice he had both in the documents and under cross-examination.

[17] I find no inequality of bargaining power. Mr. Raja is well-educated and has familiarity with mortgages; he signed the mortgage after considerable discussion with Cannect, including raising questions about, among other things, whether the mortgage was going to be interest only. The evidence shows that he pushed back on the interest rate, corresponding with the CEO of Cannect to try to obtain a lower interest rate. While Mr. Raja raised issues of representations that may have been made to him in the discussions, he recognized that he was bound by the terms of the mortgage which was signed later. There is in any event no evidence that Cannect took advantage of him, or placed any pressure on him to sign the mortgage.

[18] The mortgage was not a favourable deal for Mr. Raja, but it was not an “improvident bargain” in the sense that it “unduly” advantaged Cannect or “unduly” disadvantaged Mr. Raja: *Uber* at paras. 74-75. Accordingly, unconscionability is not established.

[19] As for duress, it applies where a person has entered into a contract against their will: *Flexpark Inc. v. Ercolani*, 2025 ONSC 1520, at para. 130, aff’d 2026 ONCA 36, citing *A. (S.) v. A. (A.)*, 2017 ONCA 243, 412 D.L.R. (4th) 470 at paras. 27-28, leave to appeal to S.C.C. refused, 2017 CanLII 61798. Mr. Raja’s evidence falls far short of establishing duress; to the contrary, it appears it was Mr. Raja who kept pressing Cannect for a deal, and engaged in negotiations with it.

[20] There is also no evidence to support any breach of contract, or breach of terms of the mortgage by Cannect. While Mr. Raja disputes the application of certain charges that were in the Notice of Sale, that does not establish a breach of contract. Even if there were flaws in the Notice of Sale, this does not raise a substantive defence when Mr. Raja admits he is in default on the principal and interest: *We Care Funding Limited Partnership v. LDI Lakeside Developments Inc. et al.*, 2021 ONSC 7466 at paras. 57-60. There is no evidence to support the conclusion that the defendant has breached its obligation to act in good faith in the performance of the contract.

[21] In short, as was the case in *Flexpark*, where similar arguments were raised, Mr. Raja has failed to raise a genuine issue for trial that the mortgage was unconscionable, that he was subject to duress, or that the defendant has breached its obligations under the contract. Rather, this case raises the unfortunate circumstance that Mr. Raja found it necessary to borrow from Cannect at unfavourable rates due to his own need for money. The security he could offer was a second mortgage, which carries with it more risk to the lender, justifying higher interest rates.

[22] Subject only to my finding on legal costs, the defendant shall have summary judgment as requested for the principal amount plus interest as provided in the mortgage, as well as for all

additional expenses, charges, and costs incurred with respect to the enforcement of the mortgage and recovery of the property as set out in the terms of the mortgage, and shall be granted vacant possession. Leave to issue a writ of possession shall also be granted.

[23] The plaintiff is also entitled to costs. The plaintiff seeks its costs on a full indemnity basis in the amount of \$236,923.28, including HST and disbursements. This is based on a Bill of Costs filed the day of the hearing. Cannect relies on the mortgage which provides that it is entitled to its “legal fees (as between solicitor and client).”

[24] However, despite the terms of the contract, the courts retain a discretion to fix costs and to scrutinize those costs to ensure they are reasonable and justified. As the Court of Appeal has stated, “[j]ust because the award is on a full indemnity basis does not mean that the successful party is entitled to whatever costs were incurred. The quantum must still be fair and reasonable for what was involved in the particular proceeding”: *United Soils Management Ltd. v. Mohammed*, 2019 ONCA 128, 23 C.E.L.R. (4th) 11, at para. 42, leave to appeal refused [2019] S.C.C.A. No. 121, citing *Boucher v. Public Accountants Council for the Province of Ontario* (2004), 71 O.R. (3d) 291 (C.A.), at para. 26. A mortgage provides many protections for mortgagees, but the contractual obligation to pay all legal costs does not give the mortgagee and its lawyers *carte blanche* to run up fees unnecessarily or to require the mortgagor to pay legal expenses that are unreasonable.

[25] A legal bill of close to a quarter of a million dollars for a matter of this kind is not reasonable. It is almost as much as the principal amount of the mortgage.

[26] Although the matter took time to come to court as it was opposed by Mr. Raja, the pleadings and motion materials were quite straightforward. Cannect’s response to Mr. Raja’s assertions was brief. No one from Cannect was cross-examined. Cannect’s counsel cross-examined Mr. Raja for a little more than two hours. The hearing on April 17, 2026 took about two hours. Yet Cannect had at least three lawyers work extensively on the file.

[27] The Court sees many similar applications and the claims for costs made on them, which are usually far lower than the costs claimed here. In this case, the costs claimed are grossly disproportionate to the matter and unreasonable. Even on a full indemnity scale, the costs should be closer to \$100,000 than \$250,000. Accordingly, I fix costs in the amount of \$100,000 which, in my view, reflects a reasonable amount on a full indemnity scale.

Schabas J.

Date: May 19, 2026