

CITATION: Royal Bank of Canada v. Sajawal, 2026 ONSC 3320
COURT FILE NO.: CV-26-0426-0000
DATE: 2026 06 05

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Royal Bank of Canada, Plaintiff
AND:
Mian Muhammad Sajawal, Defendant
BEFORE: Associate Justice Glick
COUNSEL: Milica Veselinovic, for the Plaintiff
Mian Muhammad Sajawal, unrepresented
HEARD: May 21, 2026

ENDORSEMENT

OVERVIEW

[1] This is a motion by the Plaintiff Royal Bank of Canada (“RBC”) for an order pursuant to Rule 44 of the *Rules of Civil Procedure* and section 104 of the *Courts of Justice Act* for the interim recovery of possession of personal property. The property in question is a 2017 Jaguar Sedan (the “Vehicle”) in the possession of the Defendant. RBC also requests an Order directing the Defendant to deliver the Vehicle to them. The Defendant opposes the requested relief.

[2] For the reasons that follow I dismiss RBC’s motion.

BACKGROUND

[3] RBC financed the purchase of the Vehicle by way of a Conditional Sales Contract (the “Contract”) to William Brock Tomlinson dated March 15, 2023. The Contract calls for payment to the Plaintiff in the sum of \$42,616.51 with interest on the outstanding principal and any accrued interest at the rate of 8.99% per annum. Monthly installments were due in the amount of \$767.15.

They were payable starting on April 10, 2023. According to RBC no monthly payments were ever made on the loan and default occurred as of April 10, 2023. The Contract provides that the Plaintiff is entitled to possession of the Vehicle in event of a default. The Contract also provides that title to, and ownership of, the Vehicle remains with RBC until all amounts owing under the Contract are paid in full.

[4] The Vehicle was sold, according to RBC, by Mr. Tomlinson to the Defendant. This was done without RBC's knowledge and before the Contract had ended. As of February 18, 2026, the Plaintiff says the balance owing on the contract is \$53,858.27.

[5] The Plaintiff says that they had registered a lien against the Vehicle's VIN under the *Personal Property Security Act* on March 17, 2023. They say the Defendant had constructive notice of the lien and failed to conduct himself with the reasonable due diligence a prudent buyer should exercise. Had he done so, he would have discovered RBC's security interest in the vehicle.

[6] The Defendant denies knowing about RBC's lien at the time of sale on April 3, 2023. He says he purchased the Vehicle in good faith for the amount of \$13,000. He purchased the Vehicle from a private seller he met through a Kijiji listing. He paid for the Vehicle by e-transfer.

[7] Prior to completing the purchase, the Defendant says he took the following steps:

- a. He verified the seller's identity by inspecting his Ontario driver's licence.
- b. He reviewed a CARFAX Canada Vehicle History Report dated March 21, 2023 which stated "No Lien Records Found."
- c. He received what looked like a valid Used Vehicle Information Package/VIN History which also stated "No Lien Records Found" and ownership papers.

[8] The Defendant attached these documents to his affidavit on this motion. While I make no finding as to the truth of their contents, I accept that the Defendant relied upon them in determining that there was no lien registered on the Vehicle. The Defendant says he had no reason to suspect fraud and no reasonable means of discovering RBC's security interest.

[9] The Defendant purchased the Vehicle on April 4, 2023. That night, in the early morning of April 5, 2025, the Vehicle was stolen off his driveway by the person who sold it to him using a second key fob he had kept.

[10] The Defendant had installed an Apple AirTag in the Vehicle and used it to track the Vehicle. He also immediately reported the theft to the police. He tracked the Vehicle to Montreal and also went to Montreal to help the police there locate it. On April 6, 2023, the Montreal Police located and impounded the Vehicle. The person driving the Vehicle at the time was the person who had sold the Vehicle to him.

[11] The Defendant says he paid \$5500 in impound and towing charges to recover the Vehicle from Montreal. This was done he says with the approval of the Halton Regional Police Auto Task Force.

[12] The Defendant says that he discovered the existence of the lien after recovering the Vehicle and transferring the registration into his name on September 14, 2023. He says he immediately attended an RBC branch to request a lien clearance certificate. This happened on October 23, 2023. He says RBC representatives were unable or unwilling to assist him as the loan in question was not in his name.

[13] The Defendant also believes that the individual who took out the loan with RBC and who sold him the car had also stolen the identity of Mr. Tomlinson and was not in fact Mr. Tomlinson. He believes this based on what he says the police told him during the investigation into the car theft.

[14] RBC commenced this action on February 18, 2026. The Claim is brought only against the Defendant and not the individual with whom RBC entered into the contract. RBC is seeking an Order for the recovery of the Vehicle, payment of \$53,858.27 as well as prejudgment and post judgment interest.

[15] The Defendant filed his Statement of Defence on or around March 13, 2026. His defence is effectively the same position he has taken on this motion.

[16] The Plaintiff has brought a motion for summary judgement which is returnable on July 15, 2026.

LAW

[17] Section 104 of the *Courts of Justice Act* states:

104 (1) In an action in which the recovery of possession of personal property is claimed and it is alleged that the property,

- (a) was unlawfully taken from the possession of the plaintiff; or
- (b) is unlawfully detained by the defendant, the court, on motion, may make an interim order for recovery of possession of the property.

[18] Rule 44.01 states:

44.01 (1) An interim order under section 104 of the *Courts of Justice Act* for recovery of possession of personal property may be obtained on motion by the plaintiff, supported by an affidavit setting out,

- (a) a description of the property sufficient to make it readily identifiable;
- (b) the value of the property;
- (c) that the plaintiff is the owner or lawfully entitled to possession of the property;
- (d) that the property was unlawfully taken from the possession of the plaintiff or is unlawfully detained by the defendant; and
- (e) the facts and circumstances giving rise to the unlawful taking or detention. R.R.O. 1990, Reg. 194, r. 44.01 (1).

(2) The notice of motion shall be served on the defendant unless the court is satisfied that there is reason to believe that the defendant may improperly attempt to prevent recovery of possession of the property or that, for any other sufficient reason, the order should be made without notice. R.R.O. 1990, Reg. 194, r. 44.01 (2).

[19] Rule 44.03(1) states that a court may a) order the plaintiff to pay into court as security twice the value of the property as stated in the order, or such other amount as the court directs, b) order the defendant to pay into court as security twice the value of the property as stated in the order, or such other amount as the court directs, and keep possession of the property or c) make such other order as is just.

[20] The test for an Order pursuant to section 104 of the *Courts of Justice Act* and Rule 44.01(1) of the *Rules* was set out by Justice Brown at paragraph 27 of *Baca v. Tatarinov*, 2017 ONSC 2935. The test is as follows:

- a. There are substantial grounds for the plaintiff's assertion that it is the legal owner entitled to possession of the property;
- b. There are substantial grounds for its claim that the property is being unlawfully detained by the defendant; and
- c. The balance of convenience favours the plaintiff.

[21] Justice Broad, in *Jacobs v Hill*, 2016 ONSC 4637 at paragraph 41, spoke to the extraordinary nature of the remedy. An order for interim possession is only to be granted in exceptional cases. This goes to the "substantial grounds" aspect of the test and the need for the court to have a high degree of certainty that the moving party will be successful at trial before making such an Order.

ANALYSIS

[22] In this case I am not satisfied that RBC has met the test for an Order of interim possession. I am not satisfied that RBC has made out substantial grounds for the assertion that the Defendant has unlawfully detained the property. Neither am I satisfied that the balance of convenience justifies an order for interim possession less than two months in advance of the Plaintiff's motion for summary judgment and more than three years after the Defendant purchased the vehicle.

[23] I pause here to note that I was not provided with any case law on this motion except a reference to one case in oral argument. While the Consolidated Civil Provincial Practice Direction does not require factums for short motions, they are encouraged. In my opinion, a represented party who is seeking an exceptional remedy against a self represented litigant ought to strongly consider a factum or at least an aide memoire.

Not the Registered Owner

[24] The Plaintiff admits that the Defendant is the registered owner of the Vehicle. The Plaintiff's basis for asserting it is lawfully entitled to possession of the vehicle is set out in one paragraph of its affidavit:

The Contract provides that the Plaintiff is entitled to possession of the Vehicle upon an event of default. Default in payment of monthly installments, an event of default under the Contract, occurred on or about April 10, 2023, and still continues. The Contract further provides that title to and ownership of the Vehicle remains with the Plaintiff until all amounts owing under the Contract are paid in full.

[25] Aside from a statement from the affiant that \$53,858.27 is outstanding on the contract, there is no evidence put forward to support the Plaintiff's assertion. I find that more evidence is needed to support an assertion of default, including at least a loan statement. I would dismiss the motion on this basis.

No Substantial Ground to Find Unlawful Detention

[26] The Plaintiff states that the Defendant ought to have known that it had a security interest in the Vehicle. They say a lien registered pursuant to the PPSA is notice to the world and that the Defendant had constructive notice. They say the Defendant did not conduct himself with due diligence and that if he had conducted a PPSA search he would have known that there was a lien.

[27] The Defendant, in evidence that was not challenged, spoke to the efforts he took to satisfy himself that the sale was proper and that he took all reasonable steps while purchasing same. He produced the documents provided by the seller, two of which state that there is no lien on the Vehicle. He says he is a bona fide purchaser for value and that he had no knowledge of any security interest registered against the Vehicle. He also argues, in the body of his responding motion record, that the security agreement entered into as between RBC and Mr. Tomlinson was void as the person entering into that agreement was not in fact Mr. Tomlinson, but a third party who had assumed Mr. Tomlinson's identity. The Defendant asserts that a void security agreement cannot create a valid security interest enforceable against an innocent third-party purchaser under the *PPSA*.

[28] The Plaintiff did not know whether Mr. Tomlinson was, or was not, a victim of fraud. Neither did the Plaintiff explain, even if a security interest continues to attach, how the Defendant was unlawfully detaining the Vehicle or provide evidence of requests for its return and refusal to return the Vehicle. The Plaintiff did argue that the Defendant's argument about the validity of the

security, if accepted, would mean that his purchase of the Vehicle was also void. While this makes intuitive sense, no case law was provided in support of this proposition.

[29] It may be the case that the Defendant is in fact unlawfully detaining the Vehicle, but given the evidentiary and legal gaps on the record, I am unable to conclude that there are substantial grounds to find that RBC's security interest is enforceable against the Defendant. I would dismiss the motion on this basis.

Balance of Convenience Favours the Defendant

[30] I also find that the balance of convenience favours the Defendant. The Defendant has had the Vehicle for over three years. RBC appears to have known that the Defendant was in possession of the Vehicle since October 2023 when the Defendant attended at an RBC branch to try to deal with the issue of the lien. RBC only commenced the action in February of this year. There is no allegation that the Defendant will dispose of the Vehicle or take any step to frustrate RBC's claim. There was no evidence of the Defendant's need for the Vehicle pending the summary judgment motion which is returnable on July 15, 2026.

[31] In contrast, the Defendant argues the balance of convenience weighs in his favour. He says that if he loses the Vehicle he will suffer irreparable harm. He says he will have lost the money he spent in impound and towing costs and has no realistic prospect of recovery against "a fugitive fraudster".

[32] Having found that the balance of convenience favours the Defendant, I would dismiss the Plaintiff's motion on this ground as well.

CONCLUSION

[33] It may be the case that the Plaintiff will succeed on their summary judgment motion. On this motion however, the Plaintiff has not satisfied their significant onus to justify the extraordinary remedy being sought. The motion is therefore dismissed.

[34] Costs are reserved to the hearing of the summary judgment motion.

Date: June 5, 2026

Associate Justice Glick

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SUPERIOR COURT OF JUSTICE

BETWEEN:

Royal Bank of Canada, Plaintiff

AND:

Mian Muhammad Sajawal, Defendant

ENDORSEMENT

Glick AJ.

Released: June 5, 2026