

Court of King’s Bench of Alberta

Citation: The Micro Collective Inc v Hutterian Brethren Church of Tschetter, 2026 ABKB 547

Date: 20260821
Docket: 2301 12073; 2301 12074
Registry: Calgary

Between:

The Micro Collective Inc.

Plaintiff/Appellant

- and -

Hutterian Brethren Church of Tschetter, Tschetter Manufacturing Co. Ltd., Tschetter Farming Co. Ltd. and ATB Financial

Defendants/Respondents

- and -

Alberta Registrar of Titles

Non-Party Respondent

Docket: 2301 12074

And Between:

Edward Wilson

Plaintiff/Appellant

- and -

Hutterian Brethren Church of Tschetter, Tschetter Manufacturing Co. Ltd., Tschetter Farming Co. Ltd. and ATB Financial

Defendants/Respondents

- and -

Alberta Registrar of Titles

Non-Party Respondent

**Reasons for Decision
of the
Honourable Justice C. Magnan**

Appeal from the Judgment by
The Honourable Applications Judge J. T. Prowse

Dated the 28th day of October, 2025
(2025 ABKB 618, Docket: 2301 12073)

I. Overview

[1] Edward Wilson and The Micro Collective Inc. appeal the decision of Applications Judge Prowse discharging two builders' liens registered against land owned by the Hutterian Brethren Church of Tschetter (*The Micro Collective Inc v Hutterian Brethren Church of Tschetter*, 2025 ABKB 618 (the "Decision")). The Registrar of Land Titles is a non-party respondent.

[2] The liens arose from work performed under a series of unwritten agreements in 2019 and 2020 to design a greenhouse for the commercial cultivation of cannabis, to be constructed on the Church's land. The project ultimately failed. The parties all agree that the last day for valid registration of the liens was Monday, April 17, 2023. The Appellants mailed their lien documents to the Calgary Land Titles Office using Canada Post's Xpresspost service. Canada Post delivered the package to the Land Titles P.O. Box on April 17. A government contracted courier then transported the lien documents from the P.O. Box to Land Titles. Land Titles entered the liens into the Pending Registration Queue on April 18.

[3] The appeal turns on the legal consequence of that one-day difference.

[4] The first issue is whether delivery to the Land Titles P.O. Box was sufficient to meet the statutory 45-day registration deadline. The Appellants submit that the Applications Judge erred in discharging the liens. They argue that the liens were validly registered because the Registrar received the documents when Canada Post delivered them to the Land Titles P.O. Box on April 17. For its part, the Registrar submits that receipt occurred only when Land Titles entered the liens into the Pending Registration Queue on April 18, after the statutory deadline had expired. The Church Respondent adopts the position it advanced before the Applications Judge and maintains that the liens were registered out of time and ceased to exist.

[5] The second issue is whether the Court may deem the liens to have been entered into the Pending Registration Queue before the date on which the Registrar entered them, and if so, whether this Court should exercise that discretion in these circumstances. The Appellants rely on section 190 of the *Land Titles Act*, RSA 2000, c L-4 and ask the Court to direct the Registrar to treat the liens as having been received, or entered into the Pending Registration Queue, on April 17. The Registrar responds that section 190 cannot be used to cure non-compliance with the specific 45-day registration requirement in section 42 of the *Builders' Lien Act*, RSA 2000, c B-

7. In any event, the Registrar submits that the Court should not exercise its discretion under section 190 because doing so would undermine the certainty and priority principles of Alberta's Torrens system.

[6] The parties agree that the applicable standard of review is correctness: **AG Clark Holdings Ltd v 1352986 Alberta Ltd**, 2024 ABKB 531 at paragraph 7, citing **Bahcheli v Yorkton Securities Inc**, 2012 ABCA 166 at paragraph 30, **Lesenko v Wild Rose Ready Mix Ltd**, 2024 ABKB 333 at paragraphs 14-15 and **Liberty Land Corporation v Kinnear**, 2026 ABKB 248 at paragraph 7.

[7] Pursuant to Rule 6.14(3) of the *Alberta Rules of Court*, Alta Reg 124/2010 “[a]n appeal from an applications judge’s judgment or order is an appeal on the record of proceedings before the applications judge and may also be based on additional evidence that is, in the opinion of the judge hearing the appeal, relevant and material.” None of the parties adduced fresh evidence on appeal. The Appellants and the Registrar filed new briefs on appeal, while the Respondent relied on the materials it submitted before the Applications Judge. I note that prior to the hearing, the Appellants submitted a copy of the *Pending Registration Queue Regulation*, Alta Reg 43/2021. The *Pending Registration Queue Regulation* does not constitute fresh evidence. The Court may take judicial notice of Alberta statutes and regulations: see **Knelsen Sand & Gravel Ltd v Harco Enterprises Ltd**, 2021 ABCA 385 at paragraphs 22-24, citing section 32 of the *Alberta Evidence Act*, RSA 2000, c A-18 and section 12 of the *Judicature Act*, RSA 2000, c J-2.

[8] For the reasons that follow, I dismiss the appeal. Delivery to the Land Titles P.O. Box on April 17, 2023, did not satisfy the statutory registration timing requirement. Under section 14.1(7) of the *Land Titles Act*, the relevant event is entry into the Pending Registration Queue, which occurred on April 18, 2023. The liens therefore ceased to exist under section 42 of the *Builders’ Lien Act*. Even if section 190 of the *Land Titles Act* could permit relief in an exceptional case, this is not such a case.

II. Analysis

A. Was delivery to the Land Titles P.O. Box sufficient to meet the 45-day registration deadline?

[9] For the reasons that follow, I find that the Registrar received the liens for timely registration when they were entered into the Pending Registration Queue on April 18, 2023, one day after the statutory registration period expired. As such, the liens expired and ceased to exist.

[10] The relevant statutory scheme involves both the *Land Titles Act* and the *Builders’ Lien Act*. Because the underlying agreements were made before August 29, 2022, the applicable lien regime is the *Prompt Payment and Construction Lien Act*, RSA 2000, c P-26.4, as it read before that date, when it was titled the *Builders’ Lien Act*. Unless otherwise noted, I refer to that pre-amendment statute as the *Builders’ Lien Act* in these reasons.

[11] The *Builders’ Lien Act* sets out a claimant’s procedural obligations for registration. A claimant must file a statement of lien in the prescribed form with the Registrar. The statement of lien must include certain information set out in section 34(2), such as the name and residence of the lienholder and the date on which the work was completed, or the last materials were

furnished. The *Builders' Lien Act* also contains a limited curative provision. Section 37 provides that substantial compliance with the statement of lien requirements is sufficient unless the Court finds prejudice. That curative provision, however, does not dispense with registration. Section 37(3) expressly provides: "Nothing in this section dispenses with the requirement of registration of a lien."

[12] The *Builders' Lien Act* also imposes a strict registration deadline. For the liens at issue, a claimant was required to register the lien within 45 days after the lien right arose. If the lien is not registered within that time, the consequence is clear: the lien ceases to exist: sections 41 and 42 of the *Builders' Lien Act*.

[13] The *Land Titles Act* prescribes the procedures the Registrar must follow when processing instruments. It also defines the Court's authority in relation to titles and instruments. The *Land Titles Act* provides definitions of "registration" for different circumstances and establishes the process by which the Registrar examines instruments and caveats, records them in the daily record, and assigns priority.

[14] Section 14(2) of the *Land Titles Act* provides:

The Registrar shall cause each instrument or caveat received by the Registrar for filing or registration to be examined and if it is found to be complete and in the proper form and fit for filing or registration, the Registrar shall endorse on the instrument or caveat the serial number assigned to it and the date on which the serial number is assigned.

[15] Section 14(3) establishes that, "[f]or purposes of priority between mortgagees, transferees and others, the serial number assigned to the instrument or caveat shall determine the priority of the instrument or caveat filed or registered."

[16] Section 24(1) of the *Land Titles Act* provides that a grant is deemed to be registered when "it has been marked by the Registrar with the serial number assigned to it and a memorandum of its registration has been entered in the record." Section 24(2) states that "[a] caveat or an instrument, other than a grant, is deemed to be registered when a memorandum of it has been entered on the existing certificate of title."

[17] The Pending Registration Queue is part of the registration process contemplated by section 14(2). It is defined as "the queue of instruments and caveats to which section 14.1 applies that are awaiting the examination required under section 14(2)."

[18] The Pending Registration Queue allows the Registrar to assign priority to instruments as they are entered and to examine those instruments later while preserving that priority. Once an instrument has been entered into the Pending Registration Queue, that entry is deemed to satisfy any statutory requirement that registration occur before a specified time. Section 14.1 sets out the process for entering instruments in the Pending Registration Queue. Section 14.1(7) is the deeming provision which provides:

Where, under a court order or enactment, an instrument or caveat must be registered within a specific period of time, the requirements of the court order or

enactment with respect to the timing of registration are deemed to have been satisfied when the instrument or caveat is entered in the pending registration queue, unless the instrument or caveat is later removed from the pending registration queue under subsection (6)(a)(ii) or (b).

[19] The Appellants submit that the term “received” in section 14(2) of the *Land Titles Act* is not defined. They contend that the Registrar received the liens on April 17, when Canada Post deposited them in the designated P.O. Box, and therefore within the time period prescribed under section 41 of the *Builders’ Lien Act*. They further submit that the Registrar lacks statutory authority to assign a date of receipt to an instrument in place of the registration date. In the absence of statutory definitions or authority, the Appellants submit that a common-sense approach should apply, such that proven delivery to the Land Titles Office’s designated P.O. Box constitutes receipt and entry into the Pending Registration Queue.

[20] The Appellants further submit that the public must be able to rely on receipt dates that reflect actual delivery to an address designated by the Land Titles Office. Once an instrument has been delivered to that designated address, there is nothing more the submitting party can do; actual registration lies solely within the control of the Land Titles Office. On the Appellants’ view, the purpose of the Pending Registration Queue is to ensure that, as between competing instruments, priority reflects the order in which instruments were received by Land Titles. They say that a process that uses a later registration date, rather than the actual delivery date, frustrates that purpose and is arbitrary and unfair. They also argue that recognizing April 17 as the date of receipt would not cause prejudice or substantial prejudice to the respondents.

[21] The Appellants’ common-sense approach is understandable, but it does not reflect the statutory language or the governing jurisprudence. The words of the statute must be read in their full context and harmoniously with the scheme and purpose of the Act (*Re Rizzo & Rizzo Shoes Ltd*, 1998 CanLII 837 (SCC), [1998] 1 SCR 27 at paragraph 21). In *Factors Western Inc v DCR Inc*, 2021 ABCA 433 at paragraph 58, the Court of Appeal described the *Builders’ Lien Act* as a “business-oriented statute with practical goals” and stated that its provisions must not be read in isolation: the statute must be read as an “integrated system where all sections form part of one comprehensive package relating to property and civil rights.”

[22] Importantly, the authorities distinguish between the scope of lien rights and the procedures required to enforce those rights. The Court applies a liberal interpretation to the scope of lien rights, but a strict interpretation to the procedures required to enforce them (*Young EnergyServe Inc v LR Ltd, LR Processing Partnership*, 2021 ABQB 101 at paragraph 33, citing *Davidson Well Drilling Limited (Re)*, 2016 ABQB 416 at paragraph 22(4), citing *Tervita Corporation v ConCreate USL (GP) Inc*, 2015 ABCA 80 at paragraph 5 and *Clarkson Co v Ace Lumber Ltd*, 1963 CanLII 4 (SCC), [1963] SCR 110 at 114).

[23] Justice Nixon (as he was then) described the interpretive sequence this way: “two separate interpretative steps must be applied. First, a strict interpretation must be applied when establishing the claimant’s right. Second, a liberal interpretation must be applied after the claimant’s right is established” (*Young EnergyServe* at paragraph 36).

[24] Strict compliance with the registration procedure is consistent with the nature of builders’ liens. Lien rights are creatures of statute. They exist only because the Legislature created them.

Builders' liens have been described as an "abrogation of the common law to the extent that it creates, in the specified circumstances, a charge upon the owner's lands which would not exist but for the Act, and grants to one class of creditors a security or preference not enjoyed by all creditors of the same debtor" (*Clarkson* at 114 citing *Clarkson Co Ltd v Ace Lumber Ltd*, 1962 CanLII 24 (ONCA), [1962] OR 748, per Kelly J.A.).

[25] Read together, the relevant provisions of the *Builders' Lien Act* distinguish between defects in the claimant's registration materials and failure to meet the statutory registration deadline. Defects in the contents or form of a statement of lien may be cured if there has been substantial compliance and no prejudice. By contrast, failure to register within the 45-day period is not treated as a curable procedural irregularity. Section 42 of the *Builders' Lien Act* expressly provides that a lien ceases to exist if it is not registered within the time limited by section 41.

[26] In addition, under the *Land Titles Act*, the land titles registration process requires more than the Registrar's physical possession of an instrument. Section 14(2) requires the Registrar to examine an instrument or caveat for completeness, proper form, and fitness for registration. Only after those requirements are met does the Registrar assign a serial number and proceed with registration. Section 14.1(7) deems a time-limited registration requirement to be satisfied only once the instrument has been entered into the Pending Registration Queue.

[27] The text of the *Land Titles Act* does not indicate that the Legislature intended an instrument to be deemed entered into the Pending Registration Queue upon delivery to, or receipt by, the Registrar. The deeming language in section 14.1(7) is explicitly tied to an instrument's entry into the Pending Registration Queue, not to delivery to the Land Titles Office or possession by the Registrar. The rights afforded by the Pending Registration Queue crystallize and are "deemed to have been satisfied when the instrument or caveat is entered in the pending registration queue" by the Registrar [emphasis added].

[28] In addition, section 34(1) of the *Builders' Lien Act* provides that "[a] lien may be registered in the land titles office by filing with the Registrar a statement of lien in the prescribed form" [emphasis added]. That language describes a claimant's obligation to submit the prescribed statement of lien. It does not deem registration complete upon delivery or filing.

[29] The distinction between a request for registration and actual registration is consistent with *CCS Contracting Ltd v Condominium Corporation No 1520090*, 2023 ABKB 147 at paragraph 10, where Applications Judge Schlosser explained:

A registration request is not registration. It only indicates that the Registrar will examine the request in the order it was requested at some future date. (The 'Pending Registration Queue Regulation', AR 43/2021 permits the Registrar to consider the requests out of order in some circumstances.) When the instrument is examined, the Registrar can refuse to register it (*Land Titles Act* s 50). Registration (or pending registration) of a lien can also be cancelled for the grounds set out in s 43(4) of the *Prompt Payment and Construction Lien Act*. This can be done at the request of an owner and it can occur prior to registration.

[30] Further, the *Pending Registration Queue Regulation* does not assist the Appellants. It clarifies when the Registrar may depart from sequential priority and how long an applicant has to

cure deficiencies identified by the Registrar. It does not define “received” and does not deem an instrument entered into the Pending Registration Queue when it is delivered to a Land Titles P.O. Box.

[31] Therefore, I conclude that the statutory timing requirement was not satisfied because section 14.1(7) of the *Land Titles Act* expressly ties compliance with statutory registration deadlines to entry of an instrument into the Pending Registration Queue, which occurred on April 18, 2023.

B. Does section 190 of the *Land Titles Act* authorize the Court to grant relief, and if so, should that discretion be exercised in the circumstances of this case?

[32] The Appellants seek relief in two alternative forms. First, they ask this Court to declare that the Registrar received the liens on April 17, 2023, and to direct that they be treated as having been entered into the Pending Registration Queue on that date. Second, they ask this Court to extend the statutory time period in section 41 of the *Builders’ Lien Act* from 45 days to 50 days, thereby validating the April 18 entry into the Pending Registration Queue.

[33] For the reasons that follow, I decline to grant the relief sought by the Appellants.

[34] I will first briefly address the second form of relief sought by the Appellants, that the Court extend the statutory time period in section 41 of the *Builders’ Lien Act*. I do not accept that the Court has authority to extend the statutory time limit prescribed by section 41 of the *Builders’ Lien Act*. The applicable principle is that a judge cannot shorten or extend a statutory time limit unless the Legislature has expressly conferred that power: *Kehewin Cree Nation v Mulvey*, 2013 ABCA 294 at paragraph 11. The *Builders’ Lien Act* contains no provision authorizing the Court to extend the 45-day registration period. Nor does section 190 of the *Land Titles Act* provide such authority. Whatever jurisdiction may exist under section 190 to make orders respecting title, registration, instruments, memoranda, or entries, that provision does not empower the Court to amend the Legislature’s prescribed registration period. The second form of relief sought by the Appellants is not a correction of title or a correction of an instrument. It is an extension of a statutory deadline. Absent express legislative authority, the Court cannot vary or rewrite the period established by section 41.

[35] I also decline to declare that the Registrar received the liens on April 17, 2023. As I will explain in greater detail, it is unnecessary to finally decide whether section 190 permits relief after a lien has ceased to exist under section 42 of the *Builders’ Lien Act*. I assume, without deciding, that such jurisdiction exists. Even on that assumption, the circumstances of this case do not warrant relief.

[36] First, I will consider the scope of the Court’s authority under section 190 of the *Land Titles Act* to direct the Registrar to treat the liens as having been received or entered into the Pending Registration Queue on April 17, 2023. Other than the Decision subject to this appeal, the authorities brought to the Court’s attention do not directly address the circumstances before the Court, namely whether relief should be granted where a builders’ lien has ceased to exist pursuant to section 42 of the *Builders’ Lien Act*. The language of section 42 matters. It provides that a lien that is not registered within the time limited by section 41 “ceases to exist.” As a result, in my view, even if jurisdiction survives, the exercise of that jurisdiction must be

approached with considerable restraint. Ultimately, it is unnecessary to finally determine the scope of section 190 in this case. Assuming, without deciding, that jurisdiction exists, for the reasons articulated below, this is not an exceptional case that warrants the exercise of that discretion.

1. Jurisdiction under section 190 of the *Land Titles Act*

[37] Section 190(1) of the *Land Titles Act* provides:

In any proceeding respecting land or in respect of any transaction or contract relating to it, or in respect of any instrument, caveat, memorandum or entry affecting land, the judge by decree or order may direct the Registrar to cancel, correct, substitute or issue any certificate of title or make any memorandum or entry on it and otherwise to do every act necessary to give effect to the decree or order.

[38] The Applications Judge relied on the principle that the Court's general authority to correct certificates of title under section 190 of the *Land Titles Act* does not permit it to override the more specific provision in section 42 of the *Builders' Lien Act* (Decision at paragraph 10). He held that even if section 190 conferred the necessary authority, he would decline to exercise that authority because doing so would interfere with the purpose of the Torrens land titles system (Decision at paragraphs 11-16).

[39] The Registrar submits that the Applications Judge was correct in concluding that the general authority conferred by section 190 of the *Land Titles Act* is constrained by the specific rule in section 42 of the *Builders' Lien Act* and that the Court cannot cure the late registration of the liens. It argues that the Court does not have discretion under section 190 to modify an instrument that has ceased to exist. In the alternative, the Registrar submits that it would be inequitable for the Court to exercise its authority under section 190 to correct title in these circumstances because doing so would be inconsistent with the purpose and operation of Alberta's Torrens system, which is intended to ensure accuracy and certainty of title and priority.

[40] The Appellants submit that they do not seek to revive a lien that has ceased to exist. Rather, they seek a correction to the certificates of title under section 190. In their view, the relevant error lies in the Land Titles records themselves. They argue that the lien packages were delivered to the Land Titles Office's designated P.O. Box on April 17, 2023, within the statutory period, and that a correction to reflect that date would establish that the liens never ceased to exist. Under that approach, there is no conflict between section 190 of the *Land Titles Act* and section 42 of the *Builders' Lien Act*, because the requested order would not revive an extinguished lien; it would correct the register to accurately reflect that the liens were preserved within time.

[41] The Registrar rejects that characterization. It submits that the operative event under the statutory scheme is entry into the Pending Registration Queue. Because the liens were not entered into the Pending Registration Queue until April 18, 2023, they were not registered within the period prescribed by section 41 and consequently ceased to exist pursuant to section 42. On that analysis, the Court is not being asked to correct an administrative error in the register.

Rather, it is being asked to negate the statutory consequence arising from a failure to register on time.

[42] In my view, the difficulty with the Appellants' position is that there is no correctable error in the register, certificate of title, or Pending Registration Queue record that would justify the exercise of the Court's residual jurisdiction under section 190. The Registrar did not fail to enter a valid lien into the Pending Registration Queue within a reasonable time. Nor did the Registrar incorrectly record the date on which the liens entered the Pending Registration Queue.

[43] The only error arose from the Appellants' use of a *Prompt Payment and Construction Lien Act* form, which was not the correct form. The Registrar processed and entered the liens into the Pending Registration Queue on the assumption that the liens were valid under the *Prompt Payment and Construction Lien Act* regime. However, on a proper interpretation of sections 41, 42, and 74 of the *Builders' Lien Act*, the underlying lien rights had ceased to exist. The Registrar recorded the instruments as they were presented and entered them into the Pending Registration Queue on April 18, 2023. Whether the Appellants misunderstood the applicable statutory regime or otherwise misapprehended the requirements for preserving the liens, the difficulty does not arise from an incorrect entry in the register or a failure by the Registrar to accurately record what occurred.

[44] That distinction is significant. This is not a case in which the Registrar received a complete and valid lien package well before expiry of the statutory deadline and, through administrative error or delay, failed to enter it into the Pending Registration Queue until after the deadline had passed. The circumstances relied upon by the Appellants arise from their own assumption that the liens were governed by the *Prompt Payment and Construction Lien Act* and from their resulting use of the incorrect statutory form.

[45] As noted, the Registrar submits that the Applications Judge was correct in concluding that the general authority conferred by section 190 of the *Land Titles Act* is constrained by the specific rule in section 42 of the *Builders' Lien Act* and that the Court cannot cure the late registration of the liens. The Registrar relies on ***Alberta (Registrar, South Alberta Land Registration District) v Clark & Associates Surveys***, 2004 ABCA 258. In that case, the Court considered the relationship between sections 172 and 196 of the *Land Titles Act* in determining liability for costs where judgment was obtained against both the Registrar and another defendant. Justice Hunt, writing for the Court of Appeal of Alberta, concluded that, in that context, the more specific provision governing claims against the Registrar prevailed over the general costs provision. The decision therefore applied the implied exception because the two provisions addressed the same subject matter and could not operate harmoniously in the circumstances: ***Clark & Associates Surveys*** at paragraph 45.

[46] However, the provisions in this case address different aspects of the legislative scheme. Section 42 provides that a lien ceases to exist if it is not registered within the time prescribed by section 41. Section 190, by contrast, authorizes the Court to direct the Registrar to "cancel, correct, substitute or issue any certificate of title or make any memorandum or entry on it and otherwise to do every act necessary to give effect to the decree or order." The powers under section 190 are broad, and the provision operates to provide the Court express jurisdiction, in addition to any equitable jurisdiction it may have: ***MCL Development Corporation v Harbour***

First Mortgage Fund GP Inc, 2012 ABQB 555 at paragraphs 26 and 39; **Alberta Drywall & Stucco Supply Inc v Tilt-Tech Construction Ltd**, 2017 ABQB 325 at paragraph 40.

[47] In **Canada v Canada North Group Inc**, 2019 ABCA 314, Justice Rowbotham emphasized the presumption of coherence. Legislative provisions are presumed to work together, logically and purposively, as parts of a functioning whole, and courts should avoid finding conflict where the provisions can reasonably be interpreted to operate together: **Canada North Group** at paragraphs 27-29, citing Sullivan, *Sullivan on the Construction of Statutes*, 6th ed (LexisNexis Canada, 2014), **Thibodeau v Air Canada**, 2014 SCC 67, and **Lévis (City) v Fraternité des policiers de Lévis Inc**, 2007 SCC 14. As Justice Rowbotham observed, citing Justice Bastarache in paragraph 58 of **Lévis**, the question of which provision prevails arises only where a conflict is unavoidable and cannot be resolved through an interpretation that removes the inconsistency: **Canada North Group** at paragraph 29.

[48] In **Alberta Drywall**, Justice Veit dismissed the argument that a certificate of *lis pendens* cannot be removed until a judgment determines the outcome of the claim. She stated at paragraph 3 that section 190 “explicitly authorizes a judge to do something which a Registrar cannot do.” She reasoned that section 190 would be unnecessary if a judge could do only what the Registrar could. The Court of Appeal of Alberta cited **Alberta Drywall** in **Patel v Cunningham High Performance Execution Team Corp**, 2022 ABCA 323, stating at paragraph 34 that: “[u]nlike the Registrar, the court is not limited to discharging a CLP in the circumstances outlined in s 152. Pursuant to s 190, the court can direct a CLP be discharged where doing so is just and equitable in the circumstances.” More recently in **Fenoglio v Thompson**, 2025 ABCA 212, the Court of Appeal confirmed that section 190 may permit discharge of a certificate of *lis pendens* in exceptional circumstances, even where section 148 is satisfied, if the result is just and equitable. The principles arising from these authorities are that the exercise of discretion under section 190 requires exceptional circumstances warranting equitable intervention.

[49] However, these authorities must be read in their proper context; they concern the discharge of *lis pendens* certificates, not a statutory provision that expressly declares that the underlying property right has ceased to exist. However, I note that in **TRG Developments Corp v Kee Installations Ltd**, 2014 ABQB 287, affirmed 2014 ABQB 482 and 2015 ABCA 187, Master Schlosser ordered that two liens registered against the plaintiff property owner’s lands be revived and restored to title under section 190 of the *Land Titles Act* on the basis of estoppel and waiver. The liens had ceased to exist because the lienholders failed to file a certificate of *lis pendens* within the 180-day period required by section 43 of the *Builders’ Lien Act*. In that case, the landowner filed a Notice to Prove Lien, and then repeatedly delayed the pre-trial proceedings. Although the lienholders attempted to obtain a certificate of *lis pendens*, the clerk refused to issue it without explanation. The property owner then wrote to the Registrar requesting removal of the liens on the basis that no certificate of *lis pendens* had been filed. The Registrar complied, after which the property owner refused to participate further in the action. Master Schlosser proceeded on the assumption that the liens had been properly established. He interpreted section 43 as a remedial notice provision rather than as a strict procedural requirement and noted that the property owner had actual notice of the liens and had actively participated in the litigation. He concluded that principles of estoppel and waiver justified restoring the liens under section 190 of the *Land Titles Act*. Justice Veit affirmed that decision, as did the Court of Appeal of Alberta. The Court of Appeal noted in its decision that it was a highly fact-specific case. It identified

several considerations supporting relief, including the absence of adverse effects on third parties, the fact that the only affected party was the property owner who already had notice of the liens, the fact that the property owner's legal position would have been no different had there been strict compliance with section 43, and the absence of any chilling effect on the conduct of adverse parties.

[50] In my view, the authorities support the proposition that, if section 190 preserves any residual jurisdiction to revive a lien after the Legislature has provided that the lien "ceases to exist," that jurisdiction must be confined to exceptional cases. Relief may be available where equitable intervention is necessary to correct an injustice caused by the land titles process itself, or where a party's conduct makes it inequitable to rely on strict non-compliance. However, even assuming such jurisdiction exists, I find that this case falls short of that threshold.

2. If jurisdiction exists, is the exercise of my discretion warranted in this case?

[51] The Registrar submits that exercising section 190 to treat the liens as having been received or entered into the Pending Registration Queue on April 17 would undermine the certainty, predictability, and priority principles that underlie Alberta's Torrens system. It says that priority depends on objective entries in the registration system and that retroactively altering the operative date of entry would risk unsettling reliance on the register.

[52] I agree that those considerations carry weight. The Torrens system depends upon objective and ascertainable rules governing registration, priority, and the status of interests in land. The Registrar submits that granting relief too readily would undermine certainty, predictability, and public confidence in the register. The Appellants say that there is no evidence in the record addressing the operation or purpose of the Torrens system in Alberta, no admissible evidence concerning public reliance on the timing of entry into the Pending Registration Queue, and no evidence that members of the public structure their affairs on the assumption that the date assigned by the Registrar can never be revisited by judicial order. They further submit that there is no evidentiary foundation for concerns regarding retroactive "reshuffling" of priorities. While I agree that the Court should be cautious about relying on broad policy concerns that are not grounded in the evidentiary record, the significance of the Torrens system does not arise solely from evidence tendered in this proceeding. The principles of certainty, predictability, indefeasibility, and reliance on the register are reflected throughout the *Land Titles Act* and are well recognized in the jurisprudence.

[53] As Justice Topolniski observed in *Bank of Montreal v 1323606 Alberta Ltd*, 2013 ABQB 596 at paragraph 22: "[t]he Torrens system provides for efficient management of land title by requiring that any legal interest in land be recorded in a registry operated by the Land Titles Office of the Service Alberta Department. It is designed to meet a simple policy goal – to provide a clear, definitive mechanism to evaluate the status of land." Under the Torrens system, the qualified principle of indefeasibility promotes public confidence that, subject to statutory exceptions, the register accurately reflects the status and priority of interests in land.

[54] The concern is not limited to prejudice suffered by identifiable third parties in a particular case. The concern is also institutional. The Torrens system operates through objective and publicly ascertainable registration events. If courts routinely assigned entry dates other than those recorded by the Registrar, the registration process would become less predictable. The

potential impact, therefore, extends beyond the immediate parties and engages the broader public interest in maintaining confidence in the register's integrity and certainty.

[55] Further, there are no extraordinary circumstances in this case that would justify declaring that the Registrar received the liens on April 17, 2023, and directing that they be treated as having been entered into the Pending Registration Queue on that date.

[56] This is not a case in which the Appellants delivered valid lien documents well in advance of the statutory deadline and lost their rights solely because of a proven administrative failure within the Land Titles Office. Nor is it a case involving fraud, estoppel, misrepresentation, abuse of process, or other compelling equitable considerations.

[57] Two considerations would favour the Appellants. There appears to be no prejudice, or no substantial prejudice, to the registered land-owning Church Respondent if the Court grants the relief sought by the Appellants. Nor, on the record before me, is there evidence of any subsequent registrant disclosed on title who would suffer prejudice, or substantial prejudice, from such an order. Those considerations, however, are insufficient to justify the exercise of any potential jurisdiction here.

[58] Ultimately, even on the view most favourable to the Appellants, the relief sought would require the Court to substitute physical delivery for the operative registration event chosen by the Legislature. That result is difficult to reconcile with the statutory language and the structure of the land titles system, particularly where the Registrar made no recording error, and no exceptional equitable circumstances exist. The 45-day registration period expired on Monday, April 17, 2023. The lien materials were delivered to the Land Titles P.O. Box on that same Monday, leaving very little practical margin for the statutory registration process to occur before expiry. Where the statutory consequence of late registration is as clear as it is under section 42, a claimant who submits materials at the end of the limitation period bears the risk that delivery to a P.O. Box will not result in timely entry into the Pending Registration Queue. Whatever the full scope of section 190 may be, it was not intended to function as a general power to relieve parties from the consequences of failing to meet legislatively prescribed registration requirements.

III. Conclusion

[59] The Appellants ask the Court to restore the benefits of the liens that, by operation of the Legislature's enactment, ceased to exist. On the facts of this case, I decline to do so.

[60] The appeal is therefore dismissed. The respondents are entitled to costs of the appeal. If the parties are unable to agree on costs, they may provide brief written submissions, not exceeding three pages, within 30 days of the release of this decision.

Heard on the 8th day of May, 2026.

Dated at the City of Calgary, Alberta this 21st day of August, 2026.

C. Magnan
J.C.K.B.A.

Appearances:

Laura C. Snowball
for the Plaintiff/Appellant

Jaye T. Sutherland
for the Defendants/Respondents

Jessica A. Flanders
for the Non-Party Respondent