IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Bank of Montreal v 700 Bidwell Holdings Inc.,* 2026 BCSC 2149

Date: 20261104
Docket: S266030
Registry: Vancouver

Between:

Bank of Montreal

Petitioner

And

700 Bidwell Holdings Inc., 700 Bidwell Limited Partnership, 700 Bidwell Property Inc., and Westbank Holdings Ltd.

Respondents

Before: The Honourable Justice Loo

Reasons for Judgment

Counsel for the Petitioner:	L.C. Hiebert M. Gill
Counsel for the Respondents:	E.N. Kornfeld, KC D.B.W. Koch
Counsel for the Proposed Receiver, MNP Ltd.:	V.L. Tickle
Place and Date of Hearing:	Vancouver, B.C. October 13, 2026
Place and Date of Judgment:	Vancouver, B.C. November 4, 2026

2026 BCSC 2149 (CanLII)

Table of Contents

INTRODUCTION **3**
BACKGROUND **3**
JURISDICTION AND LEGAL PRINCIPLES **3**
DISCUSSION **5**
Whether the appointment of a receiver is just and convenient 5
Timing and scope of the order 9
Timing of the order 9
Scope of the order 11
Whether Westbank should be subject to the receivership order 12
CONCLUSION **13**

2026 BCSC 2149 (CanLII)

2026 BCSC 2149 (CanLII)

Introduction

[1] This is an application for the appointment of a receiver pursuant to s 243 of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 [*BIA*] and s 39 of the *Law and Equity Act*, RSBC 1996, c 253 [*LEA*].

Background

[2] The respondent debtors are related businesses engaged in real estate development. The petition concerns the development and construction of a multi-unit purpose-built rental apartment building project on lands in downtown Vancouver. The subject lands are comprised of two occupied residential buildings which generate rental income.

[3] 700 Bidwell Holdings Inc. obtained credit facilities from the Bank of Montreal pursuant to a credit agreement for the purpose of financing the acquisition, and for development and construction costs relating to the project. The other respondents gave unlimited guarantees in respect of the debt.

[4] The respondents owe the bank more than $36 million. The respondents have failed to make interest payments when due since at least September 2025, and they have failed to repay the outstanding debt following a demand on January 26, 2026. Since issuance of that demand, the bank debt has increased by over $914,850 in accrued interest, plus costs.

[5] The security documentation between the bank and the respondents provides the bank with the right to apply for the appointment of a receiver upon default.

Jurisdiction and legal principles

[6] Section 39 of the *LEA* permits the appointment of a receiver if it “appears to the court to be just and convenient that the order should be made”. In their petition, the bank also relies on s 243 of the *BIA* which permits an application for the appointment of a receiver to be brought by a secured creditor.

[7] The factors to be considered when determining whether it is just and convenient to appoint a receiver are well established. In *Maple Trade Finance Inc. v CY Oriental Holdings Ltd.*, 2009 BCSC 1527 [*Maple Trade*], this Court cited the text *Bennett on Receivership, 2d ed.* (Toronto: Carswell, 1999), at p 130, for the following list of factors:

> [25] …
>
> (a) whether irreparable harm might be caused if no order were made, although it is not essential for a creditor to establish irreparable harm if a receiver is not appointed, particularly where the appointment of a receiver is authorized by the security documentation;
>
> (b) the risk to the security holder taking into consideration the size of the debtor's equity in the assets and the need for protection or safeguarding of the assets while litigation takes place;
>
> (c) the nature of the property;
>
> (d) the apprehended or actual waste of the debtor's assets;
>
> (e) the preservation and protection of the property pending judicial resolution;
>
> (f) the balance of convenience to the parties;
>
> (g) the fact that the creditor has the right to appoint a receiver under the documentation provided for the loan;
>
> (h) the enforcement of rights under a security instrument where the security-holder encounters or expects to encounter difficulty with the debtor and others;
>
> (i) the principle that the appointment of a receiver is extraordinary relief which should be granted cautiously and sparingly;
>
> (j) the consideration of whether a court appointment is necessary to enable the receiver to carry out its' duties more efficiently;
>
> (k) the effect of the order upon the parties;
>
> (l) the conduct of the parties;
>
> (m) the length of time that a receiver may be in place;
>
> (n) the cost to the parties;
>
> (o) the likelihood of maximizing return to the parties;
>
> (p) the goal of facilitating the duties of the receiver.

2026 BCSC 2149 (CanLII)

Discussion

Whether the appointment of a receiver is just and convenient

[8] The bank submits that the appropriate course is to have the lands sold to repay the debt owing. It acknowledges that its purpose in advancing this petition to appoint a receiver is to have the receiver sell the property.

[9] The respondents oppose the appointment of a receiver for several reasons.

[10] First, they observe that there is no evidence advanced by the petitioner regarding the financial risk to the petitioner. In *Maple Trade*, the Court is directed to consider “the risk to the security holder taking into consideration the size of the debtor's equity in the assets” when assessing whether the appointment of a receiver is just and convenient.

[11] Although the respondents owe more than $36 million to the bank, there is no evidence before the Court regarding the market value of the lands. The respondents submit, in my view correctly, that it is the petitioner’s burden to prove financial risk, and it has not done so. The petitioner submits that the Court may infer that it is subject to financial risk by the fact that the respondents have not been able to obtain a refinancing of the loan.

[12] Second, the respondents submit that this case lacks several factors which would typically justify a receivership order. For example, there is no evidence that the petitioner has encountered or expects to encounter difficulty with the debtors. The subject lands contain an operating business, and there is no evidence of apprehended or actual waste of the debtors’ assets, or any need for the preservation or protection of the property pending judicial resolution. There is no evidence of mismanagement or dysfunction apart from the debtors’ failure to pay the bank. I agree with the respondents that these factors do not support the appointment of a receiver in this case.

[13] Third, the respondents also take the position that a foreclosure order would be a less intrusive means of realizing on the petitioner’s security. They cite *Cascade*

2026 BCSC 2149 (CanLII)

Divide Enterprises, Inc. v Laliberte, 2013 BCSC 263 at para 81 for the proposition that where “the court can fashion a remedy that avoids receivership, then that is certainly something that should be considered.”

[14] Fourth, the respondents observe that the evidence supporting the need for a receivership in preference to a foreclosure is meagre. The primary piece of evidence is found in the affidavit of a senior account manager at the bank who deposes:

> … the project represents a significant and complex development project that requires oversight and expertise of a court-appointed officer to ensure a fair, equitable and orderly process is in place to safeguard all stakeholder interests. In particular, the complexity of the Project makes it unsuitable for realization through a foreclosure proceeding.

[15] This evidence is thin indeed. Conclusory statements which simply track the language in the case law without stating the underlying material facts specific to the case at bar are not particularly helpful to the Court.

[16] Fifth, the respondents emphasize that the appointment of a receiver is extraordinary relief which should be granted cautiously and sparingly, as stated in *Maple Trade.*

[17] On the other hand, the bank submits that the appointment of the receiver is necessary because the borrower has defaulted in monthly interest payments due to the bank since at least September 2025, and has failed to repay the debt following issuance of the bank’s demand in January 2026. The bank submits that it has lost confidence in the debtors' ability to obtain adequate refinancing or to cause an out-of-court sale of the lands. Further, it asserts that rent from the rental units is not being paid to the bank as required.

[18] The bank’s right to appoint a receiver under its security weighs in favour of the appointment. Although no presumption of entitlement to an appointment of a receiver arises from the fact that the security documentation allows for such an appointment, the right of an applicant to make application for a receiver under its security documentation is a “strong factor in support of the imposition of a receiver”:

2026 BCSC 2149 (CanLII)

Bank of Montreal v Haro-Thurlow Street Project Limited Partnership, 2024 BCSC 47 at para 116 [*Haro-Thurlow*]; *Maple Trade* at para 26.

[19] Further, there is authority for the proposition that the “extraordinary” nature of a receivership order is “significantly reduced when dealing with a secured creditor who has the right to a receivership under its security arrangements. In *Institutional Mortgage Capital Canada Inc. v Mortise (Scott Road Residential) Holdings Ltd.*, 2025 BCSC 1500 [*Mortise*], Justice Wilkinson held:

> [51] There is no dispute amongst the parties regarding the amount owed, that default occurred, and that IMC's security is valid. IMC has a right to enforce its security and rely on the debtors' defaults to do so. This includes its right to appoint a receiver, especially in circumstances in which the Debtors consented to the appointment of a receiver: *Haro-Thurlow* at para. 95. As such, the appointment of a receiver over the mortgaged lands is not an "extraordinary remedy": *Haro-Thurlow* at para. 114; *BCIMC Construction Fund Corporation et al. v. The Clover on Yonge Inc*., 2020 ONSC 1953, at paras.43-44; *Carnival* at paras. 27-29.

[20] In *TCC Mortgage Holdings Inc. v Shawn Oaks Holdings Ltd.*, 2025 BCSC 302 at para 37, one of the reasons cited by the Court for the appointment of a receiver was the fact that the property was stratified and rented to third parties. Further, the judge found that the complexity of the project meant that the property would not have universal market appeal and would require careful marketing to increase the likelihood of maximizing the return. She found that the sale process was likely to take several months, if not longer: para 37.

[21] Similarly, in *Haro-Thurlow*, the commercial leases on the subject lands were cited by Justice Fitzpatrick as supporting the receivership order sought.

[22] In this case, the subject lands consist of individual strata-titled units operated as rental units. The registered owner of the lands, 700 Bidwell Property Inc., holds the legal title in the lands as nominee and trustee for the respondent 700 Bidwell Limited Partnership. I can infer, despite the paltry evidence in this regard, that any transaction with respect to the lands will not be simple. The petitioner argues that a receiver-supervised sale would offer flexibility in respect of the transaction structure which can in turn enhance value.

2026 BCSC 2149 (CanLII)

[23] At the end of the day, it is clear in this case that the debt is not being paid. The respondents concede that they have made no proposals to pay the debt, despite earlier promises to that effect. The respondents concede that the bank has provided opportunities to them to resolve the defaults, and that the respondents have been unable or unwilling to do so. Interest is accruing at a rate of approximately $5,150 per day. More than $300,000 in interest has accrued since this petition was filed on August 12, 2026. As stated, the rents paid by the tenants in respect of the subject lands have not been paid to the bank as required.

[24] In *Mortise*, Justice Wilkinson quoted with approval from the decision of Justice Osborne in *RBC v Maxx Properties (No. 323) Ltd.*, 2024 ONSC 1660, who stated as follows regarding a debtor who had failed to make payments toward its debt while continuing to operate its business:

> [38] The defaults are not merely technical. In addition to the fundamental fact that there has been no monetary repayment whatsoever since December, the Debtor continues to operate the gas station business at the Property and receive revenues. Yet, no repayment is being made to the bank, nor have the funds been transferred to an RBC account as was specifically agreed to. The inescapable inference is that the funds are being diverted on a continuing basis.

[25] In my view, this passage is apposite to the circumstances in this case.

[26] Finally, in relation to the submission that the bank ought to advance foreclosure proceedings rather than this petition for the appointment of a receiver, the respondents have not cited one case in which a receivership has been refused in favour of a foreclosure process. In *Haro-Thurlow*, Justice Fitzpatrick held:

> [95] The issue could be considered through the lens of either foreclosure or receivership, as both are paths that a secured creditor, such as BMO may follow. As many cases illustrate, even within a foreclosure, receivership appointments may be sought. A secured creditor is entitled to elect the means by which the security will be enforced, as provided in the Credit Agreement, subject of course to the Court granting any relief sought from it.
>
> [Emphasis added.]

[27] Given the foregoing, it is my view that the bank is entitled to the appointment of a receiver, subject to the discussion below regarding the order's scope and timing.

2026 BCSC 2149 (CanLII)

Timing and scope of the order

[28] Although I have concluded that it is just or convenient for a receiver to be appointed, I agree with the respondents that their equity of redemption ought to be taken into account when determining the timing of the receivership order.

[29] Further, the Court's purpose in appointing a receiver in this proceeding is so that the bank can realize efficiently upon its security, which consists mostly of real property. Many of the powers that are often granted to receivers are not warranted on the evidence.

[30] I dealt with issues of timing and scope issues upon the appointment of a receiver in *The Bank of Nova Scotia v Sidhu*, 2025 BCSC 1344. Many of the principles stated and conclusions reached in that decision are applicable in the case at bar.

Timing of the order

[31] In *Haro-Thurlow* at paras 101-103, Justice Fitzpatrick held that the Court should consider the debtor's equity of redemption in considering whether a receiver will be granted the power of sale and when.

[32] In this case, as stated, no interest has been paid since September 2025. Formal demand was made on January 30, 2026. This petition was filed on August 12, 2026, but it was not heard until October 13, 2026.

[33] The respondents seek a delay equivalent to the standard six-month redemption period. They submit that the primary reason that a redemption period is typically shortened is financial risk to the bank (in other words, a lack of equity in the subject lands). They submit, correctly in my view, that no such financial risk has been proven in this case.

[34] The bank seeks the immediate appointment of a receiver. It submits that the respondents have had ample opportunity to refinance the loan. It emphasizes, as stated above, that no proposals have made by the respondents to pay the debt,

2026 BCSC 2149 (CanLII)

despite earlier promises and opportunities. Its primary position is that the receiver ought to be entitled to immediately sell the lands but, alternatively, submits that only its entitlement to enter into a sale agreement ought to be delayed.

[35] It is my view that the respondents' redemption period ought to be determined taking into account the time that has passed since the date of formal demand, the time since the filing of the petition, and the time since the hearing of the petition.

[36] On one hand, it is relevant to this determination that the respondents have done nothing to move negotiations along or to repay the loan since the formal demand in January. On the other hand, six-month redemption periods are routinely granted in foreclosure proceedings starting on the date that the *order nisi* is granted, even if there has been a significant delay between default and the commencement of those proceedings.

[37] While s 16 of the *LEA* states that the time for redemption shall be six months, unless the court considers, in the circumstances, that a shorter or longer period is justified, the redemption period is ultimately a matter for the court's discretion taking all of the circumstances into account: *Haro-Thurlow* at para 103.

[38] In my view, considering the foregoing, a delay in any sale of the subject lands equivalent to a four-month redemption period, starting at the hearing date of this petition is appropriate. The delay is less than the six-month redemption period typically given in foreclosure proceedings, but it will give a reasonable last opportunity to the respondents to find refinancing or a buyer. In determining this redemption period, I have taken into account the fact that the end of the redemption period will be a few weeks less than four months from the date of these reasons.

[39] There are steps that the bank seeks to have the receiver take prior to any ability to sell the subject lands, and it therefore suggests a staggered order such that the receiver may be appointed and that its powers other than its power to sell may be effective immediately.

2026 BCSC 2149 (CanLII)

[40] In my view, such a staggered order would be appropriate. The order for the appointment of a receiver is granted, effective immediately, but the receiver will not have conduct of sale or the power to enter into any sale agreements or to seek court approval of any sale agreements until February 13, 2027, which is four months from the petition hearing date. I will address the scope of the receiver's powers before and after that date more precisely in the next section below.

Scope of the order

[41] I have concluded that the appointment of a receiver is just and convenient because the appointment is provided for under the security documentation, and because the appointment will assist the petitioner in being able to realize efficiently on its security, given the nature of the assets, the length of time for which the debt has remained outstanding and unresolved, and the lack of any payments or proposals to pay by the respondents, despite earlier promises and opportunities.

[42] However, as stated, the subject lands contain an operating business, and there is no evidence of apprehended or actual waste of the debtor's assets, or any need for the preservation or protection of the property pending judicial resolution. Further, I must be mindful of the costs of a receiver which will ultimately be paid by the respondents. Those costs would be increased substantially if the receiver were to operate, or even to oversee the operation of, the rental business.

[43] For these reasons, it is my view that the receiver ought to have an attenuated role and, in particular, that an order authorizing the receiver to manage the rental business would not be just and convenient.

[44] Following submissions from counsel regarding the appropriate scope of this receivership order, I have concluded that the immediate powers of the receiver shall be limited to those terms set out in para 2(d), (f), (h), (i), (n), (o), (p), (r), and (s) of the draft receivership order at tab 2 of the petition record. The receiver shall also have the power to place insurance in respect of the subject lands.

2026 BCSC 2149 (CanLII)

[45] On and after February 13, 2027, assuming the mortgage debt has not been redeemed, the receiver shall also have the powers set out in para 2(k), (l), and (m).

[46] I order that the respondents shall continue to operate the rental business, subject to further order of the Court. The respondents shall begin paying the rents received from tenants, net of expenses, to the receiver immediately.

[47] The bank's application regarding the other powers set out in para 2 of the draft order is adjourned generally.

[48] The receiver's charge and borrowing power is approved at $300,000 as sought.

[49] The bank or the receiver have liberty to apply to expand the receiver's powers and to increase its borrowing power and charge if the circumstances warrant, or if the powers that I have granted to the receiver are insufficient to carry out the tasks contemplated in these reasons.

Whether Westbank should be subject to the receivership order

[50] Apart from the issue of whether a receiver ought to be appointed at all, and the issues of scope and timing, this petition is contested because it names Westbank Holdings Ltd. ("Westbank") as one of the respondents subject to the receivership order sought.

[51] The respondents submit that Westbank has granted no security to the bank, and that the bank's application to include Westbank within the scope of any receivership order is without foundation.

[52] In response, the bank submits that the relief sought against Westbank is not a general receivership order. The bank submits that limited relief against Westbank is appropriate because Westbank is an unlimited guarantor, was involved in the financing structure, and may hold or control records or project related rights required for an orderly realization. The bank submits that it does not know what rights, title or interest that Westbank has in the subject lands and that if the order against

2026 BCSC 2149 (CanLII)

Westbank is not granted, any interest held by Westbank in the subject lands may preclude the receiver from exercising its powers in relation to those lands or the records or rights associated with those lands.

[53] The respondents submit that any receivership order in respect of Westbank may be highly prejudicial to it, as a receivership order in respect of any of Westbank's assets may constitute a default under security documentation on other projects. However, there is no evidence before the Court in this regard.

[54] I have reviewed the draft order, and I am satisfied that the narrow form of relief sought by the bank in respect of Westbank is appropriate for the reasons advanced by the petitioner, subject to an exception.

[55] The draft order purports to appoint the receiver over "all of Westbank's present and after-acquired right, title and interest in and to the Lands and any assets that arise from, or relate to, the Lands and any project, development, operation, preservation or realization thereof" (underlined emphasis added).

[56] It is unclear to me what the underlined words are meant to accomplish, but they appear unnecessary to fulfil the objectives stated by the bank. As this issue was not argued before me, the parties have leave to arrange further brief submissions to be made on this narrow point if necessary. Absent such submissions, the underlined words shall not be included in the order.

Conclusion

[57] The bank's petition for the appointment of a receiver is granted on the terms set out in these reasons.

"Loo J."

2026 BCSC 2149 (CanLII)