



COURT FILE NUMBER:

~~18101-4745~~ 1801-04745

COURT:

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE:

CALGARY

PLAINTIFF:

HILLSBORO VENTURES INC.

DEFENDANT:

CEANA DEVELOPMENT SUNRIDGE INC.

DOCUMENT:

BRIEF OF SUKHDEEP S. DHALIWAL

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

SUKHDEEP DHALIWAL
28 CASTLEBROOK PL NE
CALGARY, AB T3J 1V8
Email: GDCL@LIVE.COM
Phone: 403 681 6051

TABLE OF CONTENTS

INTRODUCTION	3
FACTS	3
ISSUE	4
ARGUMENT	5
CONCLUSION	9
RELIEF REQUESTED	10

INTRODUCTION:

1. I, Sukhdeep Singh Dhaliwal, the applicant, am a purchase depositor of a project originally developed by Ceana Development Sunridge Inc. ("Ceana Sunridge")
2. Pursuant to a Receivership Order made by Justice B.E.C Romaine on July 3, 2019, Alvarez and Marsal were appointed to act as a receiver and manager ("the Receiver") of Ceana Sunridge.
3. I and Mandeep S. Mavi, have failed to have our rights to the purchaser deposits to be recognized in trust or implied trust pursuant to Memorandum of decision of Honourable Madam Justice K.M. Eidsvik passed on the 5th day of February 2021.
4. Honourable Madam Justice K.M. Eidsvik passed the judgement that our funds were co-mingled. (*paragraph 87 of Memorandum of decision of Honourable Madam Justice K.M. Eidsvik passed on the 5th day of February 2021*)

FACTS:

5. On September 18, 2017, the applicant was approached by Bob Gaidhar to get financial help and applicant provided Bob Gaidhar in the name of Ceana Development Inc. a loan for the amount of \$63,754.50, plus 2% interest, (*Exhibit "J" of my affidavit filed April 15, 2021*).
6. The Receiver through its analysis was unable to trace the amount of \$63,754.50 into the Ceana Development Sunridge project.
7. The applicant paid purchase deposits into Ceana Development Sunridge project for the amount of \$374,711.13 (*Exhibit "A" of Affidavit of Sukhdeep S. Dhaliwal sworn October 28, 2020*).
8. The Project is Ceana's principal and only business.

9. At all times, the sole directing mind of Ceana was Bahadur (Bob) Gaidhar. He personally negotiated and signed each Purchase and Sale Agreement ("PSA") (*Affidavit of Bahadur (Bob) Gaidhar sworn November 23, 2020 ("Gaidhar Affidavit") para. 23*)
10. Funds of purchasers and investors were moved out of Ceana Development Sunridge Inc. accounts and into related parties (*Receiver's Third Report para 43 (sources and uses schedule & appendix "F" dated December 09, 2020)*),
11. Ceana Development Inc. used the funds that originated from Ceana Development Sunridge Inc. to finance other related projects and caused the intended project of these funds to be starved financially (*Exhibit "I" of my affidavit filed April 15, 2021*).
12. CRU 5 & 6 of the Ceana Project for which the applicant had signed a PSA and paid deposits for, has been sold to another party (Simon Touchan / 2035043 Alberta Ltd.) (*Exhibit "F" and "G" of Affidavit of Sukhdeep S. Dhaliwal filed April 15, 2021*).

ISSUES:

13. Does the applicant have the right to gather information from holders of critical evidence in order to trace the movement of its funds?
14. Does the applicant have the right to request funds loaned to a party unwilling to return the loaned funds?
15. Does the court have the right to initiate an investigation into the conduct of Ceana Development Sunridge Inc. and its related parties?
16. Does the court have the authority to provide the remedies sought?
17. Should the JV contracts be assigned to Hillsboro Ventures Inc as requested through Receiver's Seventh Report?

ARGUMENT:

18. The common law and foundation rules of the court permit and give relief as remedy to the applicant in order to gather documentation proofs from the parties holding these documentation and order production of relevant materials as requested. The applicant is merely trying to discover the facts of the mismanagement of funds relating to its investments.
19. Ceana Development Inc and Bahadur Gaidhar have cashed and used the funds which were advanced at a prescribed rate of interest and is liable to refund these funds with interest to the applicant.
20. The court has the right and remedies at its disposal under the common law and foundational rules to provide any remedy it sees fit.
21. The court has authority under Section 67(2) of the Civil Enforcement Act RSA 2000 c-C-22 to initiate an investigation into the conduct of parties to the Ceana project and missing funds of Ceana investors and PSA holders.

"Court ordered remedy

67(2) Where on an application by an interested party the Court is satisfied that improper conduct has taken place, the Court may do one or more of the following:

- (a) direct that an investigator be appointed to review the improper conduct and report to the Court;
- (b) direct that the person carrying on the improper conduct cease carrying on the improper Conduct;
- (c) give directions as to how matters are to be carried out so that the improper conduct will not reoccur or continue;
- (d) if the applicant suffered loss due to the improper conduct, award compensation to the applicant in respect of that loss;

(e) award costs;

(f) give any other directions or make any other order that the Court considers appropriate in the circumstances.

(3) The Court may grant interim relief under subsection (2) pending the final determination of the matter by the Court.

RSA 2000 cC-22 s67;2009 c53 s40;

2014 c10 s45"

22. It has been noted throughout receivership proceedings that Ceana has failed on numerous accounts to provide documentation to the Receiver and/or interested parties. The applicant requests the court direct Ceana to provide any documentations requested by the applicant in a timely manner going forward.
23. The applicant has noted the opposition by the Receiver to not provide certain documents with a perceived view of confidentiality. The applicant is opposed to this view and argues the items requested are relevant and necessary for its investigation of funds. It is also noted the need for access to these documents outweighs the perceived privacy concerns. All parties are and were aware that all documents provided during receivership had the real possibility of being disclosed to interested parties and were aware of such risks.
24. The applicant is opposed to the view of the receiver to seal any or all Confidential Appendices 1 to 3 to the First and Second Reports of the receiver as the applicant is an interested party affected by these proceedings and has the right to view and access all documentation causing loss of its funds.
25. The receiver owes a duty to make full disclosure of information it holds, including contracts, confidential information and bids to the interested persons.
26. Sealing of these documents on a confidential basis infringes on an applicant's right to a fair trial. Although in the context of a civil proceeding this does not engage a Charter right, the right to a fair trial generally can be viewed as a fundamental principle of justice: *M. (A.) v. Ryan*, [1997] 1 S.C.R. 157, at para. 84, per L'Heureux-Dubé J. (dissenting, but not on that point). Although this fair trial right is directly relevant to the appellant, there is

also a general public interest in protecting the right to a fair trial. Indeed, as a general proposition, all disputes in the courts should be decided under a fair trial standard. The legitimacy of the judicial process alone demands as much. Similarly, courts have an interest in having all relevant evidence before them in order to ensure that justice is done.

27. There is relevant case law found in the Supreme Court of Canada's decision in *Sierra Club of Canada v. Canada (Minister of Finance)*, [2002] S.C.J 42; [2002] 2 S.C.R 522 at paragraph 53 which reads as follows: A confidentiality order under Rule 151 should only be granted when:

(a) such an order is necessary in order to prevent a serious risk to an important interest, including a commercial interest, in the context of litigation because reasonably alternative measures will not prevent the risk; and

(b) the salutary effect of the confidentiality order, including the effect on the right of civil litigants to a fair trial, outweigh its deleterious effects, including the effects on the right to free expression, which in this context includes the public interest in open and accessible court proceedings.

28. Sealing of these documentation is not in the interest of the public or affected parties or the court's strategic priorities for a timely cost effective access to information.

29. The Receiver should be directed to provide access to requesting parties without any extra burden of cost to the requestor and should consider it their duty. The Receiver through these proceedings has been compensated handsomely from the coffers of the estate and will incur minimal cost going forward as bulk of documentation has been digitized and available in an electronic format.

30. The applicant is of the view that the JV contracts should not be assigned to Hillsboro Ventures Inc as requested via the Receiver's Seventh Report requesting assignment of JV contracts. The JV contract holders are simple, ordinary individuals, while other parties to JV contracts or interested in assignment of such contracts are professionals in their field. This assignment could expose the investors to further liability and

unnecessary expense to already suffering families. The court should find a permanent solution, so future liability does not impact the JV contract holders.

31. In the applicant's view and some of the investors the applicant has had contact with, this project and the events that have occurred have been executed to perfection, where each party has played their roles to perfection with minor glitches from PSA and JV holders.

- a. Ceana did not put any effort and made no attempt to defend the rights and interests of PSA and JV contract holders. Ceana has failed to provide the necessary documents to the requesting parties on numerous occasions, which in my mind is a contempt of court orders in receivership.
- b. The secured lenders have continued to bill penalties and interest charges at 18% interest in an environment where lending rates are below 2%, while the project is insolvent and in receivership. Lender continues to include these inflated claims into their Quantum of claim. Lender repeatedly issued loans to the project without any system of checks and balances. The project at the time of receivership was completed less than 20% while funds in excess to project status were cleared.
- c. The Receiver has accepted all these claims at face value and contracts with minimal verification of their own and is requesting to seal documents so the evidence could be suppressed forever.
- d. All these parties have benefited financially where Ceana commingled and moved funds worth over \$3 million dollars through its related companies and authorized overpayments to its former General contractor(s) for motives unknown to the applicant. The receiver got paid for its invoices, the first lender received full repayment of its loan and the second lender got the project title clear without any liens. The only individuals suffering and their funds are the investors and purchase holders with very little resources remaining to seek justice.
- e. To date, all these proceedings have choked the sentiments of innocent citizens, small businesses owners, and investors, who had dreams of contributing to our

economy and prospering our great country of Canada with loaned funds against their properties, from friends and family. These proceedings have not only affected the investors and their families, but the communities they live in and contribute to. A proper investigation is warranted.

32. Most of the investors who happened to be first and second generation immigrants to Canada were intentionally targeted and preyed upon as consumers by the scheme concocted by Ceana and it's director Bob Gaidhar (an experienced developer & realtor) They had put forth their hard-earned money into Ceana trusting the financial safety that a nation such as Canada brought them as a first-world country. The events that have taken place have caused irreparable damage to these people, their daily lives, and their trust in the system Canada has in place.

33. There is no other known opposition to the applicant's request at the time of writing this brief.

CONCLUSION:

34. In Summary:

- (a) Ceana Development Inc. received funds as loan from Applicant and is required to return them with interest as agreed upon.
- (b) The receiver owes duty to disclose information it holds to the creditors under the role of a court appointed receiver.
- (c) The applicant considers it to be fair and necessary to be able to review all documentation in the receivership proceedings as being relevant to applicant's interest.
- (d) The receiver has shown throughout its analysis the funds were transferred to related parties.
- (e) Ceana and its management has a duty to act honestly and in good faith under the Business Corporation Act in the interest of the shareholders.

- (f) The applicant believe's access to such documents are necessary to trace and find the truth behind the missing or mismanaged funds.
- (g) The denial of such a request will be unfair to the applicant and would send a message of truth being suppressed and conduct of companies such as Ceana, the lenders, the contractors, the receiver or any other party being involved in this project as being condoned as acceptable to our society. This will further erode the confidence of any individual to invest in our economy or justice system.
- (h) As J.C.Q.B, this court has the jurisdiction under the common law to review and provide remedy to the applicant.
- (i) The applicant is opposed to the view of the receiver for sealing of confidential appendices.
- (j) The applicant is opposed to the view that the JV contracts should be assigned to Hillsboro Ventures Inc as requested in the Seventh Report of the Receiver as it could have further liability .

RELIEF REQUESTED:

35.

- 1) Request the court to order Ceana Development Inc. to refund the loaned amount of \$63,754.50 plus interest of \$4675.33 (2% simple interest for 3 years 8 months to date) to the applicant.
- 2) Request authorization from the court to collect documentation from various parties, bank(s), credit bureau(s), Property Records and holders of information related to Ceana Development Sunridge Inc. and its affiliated companies and other related parties and companies as listed in my application.

- 3) The court is requested to initiate an independent investigation into the conduct of Ceana ,its management and any other party involved in these proceedings including secured lenders and the receiver.
- 4) The court should deny the request for assignment of JV contracts.
- 5) This court is requested to use its power to bring justice to suffering families and citizens who are not financially capable to fight further in our current justice system.
- 6) Request the court to direct the receiver to disclose to applicant all previously sealed documentation for review including Confidential Appendices 1 to 3 of the receiver's First Report and Confidential Appendices 1 to 3 of the Receiver's Second Report.
- 7) The applicant is requesting the court to permit the 2 year limitation period start date to be the date of this order, as the applicant has had limited access to required documents to evaluate future claims against any party involved in the Ceana Development Sunridge Inc, project.

Submitted this 10th Day of May, 2021

ALL OF WHICH IS RESPECTFULLY SUBMITTED



Per: Sukhdeep S. Dhaliwal
(Applicant)