IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *SpringCreek Capital Corp. v. Full Spectrum Medicinal Inc.,* 2025 BCSC 1216

Date: 20250612
Docket: S230191
Registry: Vancouver

Between:

SpringCreek Capital Corp.

Petitioner

And

Full Spectrum Medicinal Inc.
1313721 B.C. Ltd.
Chase Business Development Corp.
Amex Bank of Canada
John Doe

Respondents

- and -

Docket: S231576
Registry: Vancouver

Between:

Chase Business Development Corp.

Plaintiff

And

Fiore Cannabis Ltd., Full Spectrum Medicinal Inc., 1313721 B.C. Ltd., SpringCreek Capital Corp., Peter Lacey and Carl Rosenau

Defendants

Before: The Honourable Madam Justice Murray

Oral Reasons for Judgment

In Chambers

Counsel for SpringCreek Capital Corp.:	J. Williams L. Buitendyk
Counsel for Chase Business Development Corp.:	J. Shewfelt
Counsel for Peter Lacey and Carl Rosenau:	A.S. Dosanjh
Full Spectrum Medicinal Inc.,1313721 B.C. Ltd., Amex Bank of Canada, John Doe, and Fiore Cannabis Ltd:	No appearances at this hearing
Place and Date of Hearing:	Vancouver, B.C. June 6, 2025
Place and Date of Judgment:	Vancouver, B.C. June 12, 2025

[1] There are two applications before me. In the first application, SpringCreek Capital Corp. (“SpringCreek”) seeks an order approving the sale of agricultural property in Celista, BC, located on the north shore of Shuswap Lake (“the property”). In the second application, Chase Business Development Corp. (“Chase”) seeks a preservation order restraining SpringCreek from selling the property. If I approve the sale, there is no need to consider Chase’s application.

[2] The property, 38.86 acres within the Agricultural Land Reserve (ALR), was purchased in January 2019 by Full Spectrum Medicinal Inc. (“FSM”). At around the same time as the purchase, FSM, Chase, and Fiore Cannabis Ltd. entered into a joint venture agreement to develop the property into a cannabis production facility.

[3] Two large prefabricated, metal storage warehouse-type buildings, built in 2016/2017, were to be used in the venture. In early 2020, the project was stalled. The buildings fell into disrepair due to winter damage.

[4] In July 2021, FSM entered into a financing agreement and mortgage with SpringCreek. In early 2023, SpringCreek commenced foreclosure proceedings. On June 1, 2023, the Master, now Associate Judge, Krentz ordered that SpringCreek have exclusive conduct of sale over the property and that net proceeds would be paid into court pending the final disposition of this action.

Under the Krentz order, the Court is to approve the sale unless it is agreed to by all parties.

[5] The property was appraised for foreclosure purposes to have a market value, as of July 19, 2023, of $1.5 million – with the land value being $486,000 and the improvements $1,014,000. That value assumed that the buildings on the site were in compliance with building codes, but they were not. As noted in the appraisal report, improvements to the buildings were placed under a stop work order on March 16, 2022, by the Columbia Shuswap Regional District due to a building regulation contravention. Prior to occupation of the buildings, an owner will have to apply for a new building permit, and the buildings will need to be brought into compliance with the building code. The cost of doing so was not determined by the appraiser.

[6] That brings us to this application.

[7] SpringCreek applies for court approval of the sale of the property to Hi-Grove Holdings Ltd. for $650,000. SpringCreek submits that this offer should be approved. The property has been extensively marketed for 19 months, and this is the only offer that has been made. SpringCreek says that the offer is reasonable, and there is no guarantee that there will be another offer.

[8] The test for whether a sale should be approved is whether the sale is provident and conducted in a business-like manner: *Dundarave Mortgage Investment v. AAPNA Real Estate Mortgage,* 2022 BCSC 1624 at para. 83. The burden is on the applicant, SpringCreek, to satisfy the Court that this test has been met.

[9] In *Kokanee Mortgage MIC Ltd. v. 669655 B.C. Ltd.*, 2014 BCSC 458 at para. 27, Justice Gaul defined “provident” as whether “the marketing and sales process has been a fair and proper one for all, and that the proposed price reflects the fair market value for the property …”

[10] In order to determine the providence of the sale, it is necessary to consider the efforts made to sell the property.

[11] On October 30, 2023, SpringCreek listed the property with Bill Randall, executive vice president of Colliers Macaulay Nicholls Inc. It was listed for $2.5

million. The listing was placed on the multiple listing system (MLS). On April 24, 2024, the listing price was reduced to $2.3 million. On May 8, 2025, the property was relisted at $1.5 million.

[12] Throughout the listing period, the property has been marketed on the internet, social media, and websites. Between November 2023 and mid-May 2025, there were 781 views of the property on the Colliers Canada website. Eblasts (mass emails) advertising the property were sent to 400 real estate brokers in January 2024, July 2024, and February 2025. The property was listed in Western Investor newspaper in the first and second quarters of 2024. Six realtors, two corporate parties, and two individuals expressed interest in the property. Only two corporate parties and one individual actually viewed the property.

[13] Most significantly, only one offer was made – the one before the Court. It was made on May 3, 2025. SpringCreek has accepted the offer. The deposit has been paid and is being held in trust by Colliers. The offer has no conditions other than approval of the Court.

[14] In his affidavit, Mr. Randall, an experienced realtor, states that in his view the property has been fully exposed to the market and the response has been tepid. He notes that the property is challenged as it is in a remote area, is in the ALR, and has unfinished improvements on it, which the district has registered a covenant against until they are completed. In Mr. Randall's view, the offer represents fair market price. Mr. Randall "strongly recommends that the sale be approved as it is the only offer received and came as a result of him "working on the purchaser for several months to submit an offer."

[15] The respondent, Chase, opposes the sale on the grounds that:

a) This is not an ordinary foreclosure proceeding. In a separate action, Chase is challenging the validity of SpringCreek's mortgage. If successful, the relative positions of Chase and SpringCreek stand to be reversed, with Chase becoming the sole mortgagee entitled to the whole of the sale proceeds; and

b) The property could fetch a substantially higher price if the parties wait for the market to improve as is expected. There is no rush, as the sale proceeds will be held in court pending litigation.

[16] In my view, the first argument is irrelevant to this application. SpringCreek has been granted conduct of sale. The proceeds will be paid into court. The parties can then fight over their entitlement to the funds.

[17] Turning to the second argument. In support of the proposition that the property could sell for more in the future, Chase relies on the affidavit of Gordon Blair, a licenced realtor who has been involved in selling agricultural properties in the area of the subject property for the past 21 years. Among other things, Mr. Blair deposed to the following (the emphasis is mine):

a) He has inspected the property and has personal knowledge of its characteristics;

b) On the property are “two large and newly constructed warehouse buildings totalling approximately 23,000 sq. ft.”;

c) The current assessed value is $1,702,000 and as of May 2025, it was being marketed as a commercial property with an asking price of $1.5 million;

d) In his view, the best use of the property would be as a small farm utilizing the buildings as greenhouses, barns, an arena for animals, equestrian activities, or for covered feed storage. He opines that the property would likely attract more potential buyers if it was listed as a farm or residential property;

e) In his opinion as a realtor, the property has a value of approximately $1.47 million consisting of $550,000 for the land and $920,000 for the “newly constructed” buildings;

f) “If the seller of the property has patience the time to wait the property will… most likely sell for a price in the range of $1,250,000 to $1,470,000 sometime in the next year or two”; and

g) “The current proposed sale of $650,000 will give the purchaser substantial windfall as the market conditions for agricultural property continue to increase over the coming months and years”.

[18] I have a number of concerns regarding Mr. Blair's opinion. First, he is not qualified to give opinion evidence on the value of real estate. Second, the property is being marketed as a farm. The marketing brochure lists the many allowable uses for the property, including as a horse facility, farming, and agri-tourism. Third, Mr. Blair misrepresents the state of the buildings. The buildings are not new. According to the information before me, they were erected in 2016/2017 and are in disrepair. Plus, there is a covenant against them. There will be an undetermined cost to bring them into compliance with building codes. Lastly, Mr. Blair provides no basis for his pivotal opinion that the market for this property is likely to improve in the next year or two.

[19] It is clear from the authorities that price is not the sole consideration – all of the circumstances have to be taken into consideration.

[20] Justice Fitzpatrick noted in *Institutional Mortgage Capital Canada Inc. v. Plaza 500 Hotels Ltd.*, 2020 BCSC 888, that the meaning of "provident" in a foreclosure proceeding does not mean certainty that the "best price" obtainable in the market was achieved had the mortgagor sold the property itself. It is inevitable that the market recognizes the "forced sale" nature of the circumstances under a Conduct of Sale Order.

[21] The property has been fully exposed to the marketplace by a competent real estate professional for 19 months. All reasonable steps to sell it have been taken. This is the only offer that has been made. I agree with Mr. Randall that given these factors, this offer clearly reflects the fair market value. The proposition that the property might sell for more in a year or two is pure speculation.

[22] As stated by our Court of Appeal in *J. & W. Investments Ltd. v. Black et al.*, [1963] B.C.J. No. 125 at para. 40, an undervalue sale may be provident if the mortgagee acts in good faith and takes reasonable steps to obtain a proper price, even if it is possible that the property could sell for more at a later time:

> [40] (4) …the mortgagee has the right to sell the mortgaged chattels to realize the moneys due to him. Having the right to payment, he is not obliged to wait as the reasonable merchant, until the full price is offered and therefore may wilfully sacrifice the mortgaged chattels in order to realize thereon. Whether the suit be to charge the mortgagee personally or to set aside the sale on the grounds of fraud or collusion with the purchaser, as in *Haddington Island Quarry Co. v. Huson*, [1911] A.C. 722; *Farrar v. Farrars, Ltd.* (1888), 40 Ch.D. 395; *Nutt v. Easton*, [1899] 1 Ch. 873; affirmed [1900] 1 Ch. 29, the Courts have held the mortgagee to be not a trustee for the mortgagor of the power of

> sale: *Farrar v. Farrars, Limited*, at p. 410; *Warner v. Jacob* (1882), 20 Ch.D. 220; *Kennedy v. De Trafford*, [1896] 1 Ch. 762, *per* Lindley, L.J., at p. 772. That is the mortgagee has an interest and the right to protect that interest by selling to realize the moneys due, notwithstanding such sale may be at an undervalue, provided always that he exercises such power of sale "in good faith, without any intention of dealing unfairly by his mortgagor": *Kennedy v. De Trafford et al.*, [1897] A.C. at p. 185. That is so stated in *Farrar v. Farrars, Ltd.*, by Lindley, L.J., at pp. 410-1 as follows:
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> > A mortgagee is under obligations to the mortgagor, but he has rights of his own which he is entitled to exercise adversely to the mortgagor. A trustee for sale has no business to place himself in such a position as to give rise to a conflict of interest and duty. But every mortgage **confers** upon the mortgagee the right to realize his security and to find a purchaser if he can, and if in exercise of his power he acts *bonâ fide* and takes reasonable precautions to obtain a proper price, the mortgagor has no redress, even although more might have been obtained for the property if the sale had been postponed: *Cholmondeley v. Clinton*, 2 Jac. & W. 1, 182; *Warner v. Jacob*, 20 Ch.D. 220.

[23] I find that decision to be applicable here. There has been little interest in the property. The buildings, which account for about two-thirds of the assessed value, will continue to deteriorate. The cost to complete improvements and bring them to code is unknown. Similarly, the cost to remove the buildings is unknown. The July 2023 appraisal notes that sales in the area were “very limited’ in the preceding years. Comparable sales in the area between October 2022 and June 2023, which were primarily bare land, were in the range of $420,000 to $620,000. There is no cogent evidence that the market for this property will improve in the next year or two.

[24] Having regard to all of the circumstances, I am satisfied that the sale is provident. I approve the sale of the property to Hi-Grove Holdings Ltd. on the terms and conditions set out in the contract of purchase and sale dated March 16, 2025, and the amendment/addendum thereto dated April 30, 2025, for the sum of $650,000.

[25] I make the orders as set out in the draft order attached to SpringCreek’s Notice of Application.

[26] Given that I have approved the sale, there is no need to consider Chase’s application. It is dismissed.

[27] Costs of both applications are in the cause.

“The Honourable Madam Justice Murray”