

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Avis Homes Limited v. Sidhu*,
2026 BCSC 288

Date: 20260224
Docket: S234346
Registry: New Westminster

Between:

Avis Homes Limited

Plaintiff

And

Karamjeet Kaur Sidhu

Defendant

-and-

Docket: S245646
Registry: New Westminster

Between:

Real Deal Homes Limited

Plaintiff

And

Avis Homes Limited

Defendant

Before: The Honourable Justice Loo

Reasons for Judgment

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Action No. S234346 and Defendant in
Action No. S245646:

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Action No. S245646:

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Place and Date of Hearing:

Vancouver, B.C.
February 3, 2026

Place and Date of Judgment:

New Westminster, B.C.
February 24, 2026

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Introduction

[1] There are two applications before me, arising from reasons for judgment issued by me in these two actions on July 10, 2025, indexed at 2025 BCSC 1282 (the “Reasons”).

[2] In the first application, Karamjeet Kaur Sidhu and Real Deal Homes Limited (“Real Deal”) seek an order reopening the trial and deferring adjudication of the unjust enrichment claim dealt with in the Reasons until final disposition of another Supreme Court action (Vancouver registry no. S244733, referred to herein as the “Tax Action”).

[3] In the second application, Avis Homes Limited (“Avis”) seeks to have the Court deal with issues that it submits were argued at the trial but were not addressed in the Reasons. It also asks the Court to resolve outstanding disputes regarding the settlement of the trial Order.

[4] I will address these applications in turn.

Background

[5] The proceeding arose from a dispute over the purchase and redevelopment of a residential property located on Woodward's Road in Richmond (the “Property”).

[6] The individuals involved in the dispute are Kuljit Dhillon, the principal of Avis, on the one hand, and his brother-in-law, Balraj Sidhu, the principal of Real Deal, and Karamjeet Sidhu, who is Mr. Dhillon's sister and Mr. Sidhu's spouse, on the other.

[7] These reasons should be read together with the Reasons. The background facts and the analysis which forms the context of these applications are fully set out in the Reasons and will not be reproduced here.

Analysis and discussion

Real Deal’s and Ms. Sidhu’s application to reopen the trial and defer adjudication of the unjust enrichment claim until final disposition of the Tax Action

[8] In the Reasons, I held that Ms. Sidhu and Real Deal had been unjustly enriched by payments to them totalling \$550,000 (the “Cheques”), and that Ms. Sidhu and Real Deal are jointly liable to Avis in that amount.

[9] Ms. Sidhu and Real Deal seek to reopen the trial, and they ask the Court to defer adjudication of the unjust enrichment claim. They submit that the Court allowed the unjust enrichment claim on the basis of a finding that Mr. Dhillon was not “legally obligated to contribute to” a tax debt allegedly owed by Mr. Dhillon to Mr. Sidhu, and that it would produce a miscarriage of justice to determine Mr. Dhillon’s liability for the tax debt in this action when that issue is the subject of the Tax Action.

[10] I agree that it would have been unjust for this Court to determine Mr. Dhillon’s liability for the tax debt in this action when that issue is the subject of the Tax Action. Indeed, I held that in the Reasons that it would be inappropriate for the Court to find that Mr. Dhillon agreed to pay and did pay the Cheques in respect of a legal obligation to pay the taxes: Reasons, para. 82.

[11] However, I do not agree with Ms. Sidhu and Real Deal that the Reasons contain a finding that Mr. Dhillon was not legally obligated to contribute to the tax debt. The applicants misread the Reasons, which state as follows at paras. 84–85:

[84] Following on the above analysis, it is my view that the proven facts lie somewhere between the positions of the parties. I find that Mr. Dhillon wrote “loan” on the Cheques and that he caused a “loan agreement” to be prepared in relation to those funds because he knew the funds were to be used by the Sidhu family to pay Mr. Sidhu’s taxes, and he did not want CRA to associate him with those payments.

[85] However, I also find that Mr. Dhillon did not provide the money because he was legally obligated to contribute to the tax debt. Rather, he provided the funds because Ms. Sidhu needed them. The context was that the Sidhus needed to make the tax payments, but they were in a difficult financial position, and Ms. Hong refused to contribute. I also accept that Mr. Dhillon may have subjectively intended that the amounts were to be

credited to him for redevelopment expenses, but I do not accept his evidence that he communicated this clearly to Ms. Sidhu.

[12] The context of these paragraphs was a dispute between the parties regarding the purpose of the Cheques. Avis' position was that the Cheques represented contributions by it to the expenses incurred by Real Deal for the redevelopment of the Property. The position taken by Ms. Sidhu and Real Deal was that Avis or Mr. Dhillon provided the Cheques in order to contribute to a tax liability for which Mr. Sidhu had become liable to the Canada Revenue Agency ("CRA").

[13] I found (at paras. 61–85 of the Reasons) that neither of these purposes was made out on the evidence. Therefore, Mr. Dhillon was not given credit for the repayment of redevelopment expenses in the amounts of the Cheques (para. 86), but neither was he given credit for the payment of funds against a potential tax debt (para. 83). The upshot of these two findings was that there was no juristic reason for the payment of the Cheques, and the unjust enrichment finding followed.

[14] There is nothing in the Reasons which decides one way or the other whether Mr. Dhillon is liable for the tax debt. The sentence which is the focal point of the applicants' submissions—*I also find that Mr. Dhillon did not provide the money because he was legally obligated to contribute to the tax debt*—is not a finding that Mr. Dhillon was not legally obligated to contribute to the tax debt. Rather, it is simply a finding of fact that the tax debt was not the reason that the Cheques were provided. It is no more than a restatement of the point already made at para. 83: that I was not persuaded that Mr. Dhillon was paying the Cheques to satisfy a tax debt owed to Mr. Sidhu.

[15] In my view, paras. 84–85 of my Reasons are clear in this regard, but if not, it is hoped that these brief supplemental reasons provide some additional clarification. To reiterate, there is nothing in my reasons which precludes a finding in the Tax Action that Mr. Dhillon is liable or is not liable for the tax. I have found that he did not pay the Cheques either on account of tax or redevelopment expenses. Because of the lack of any juristic reason for the Cheques, Ms. Sidhu and Real Deal were

unjustly enriched by their receipt. If the Court in the Tax Action concludes that Mr. Dhillon is liable for the tax, he will have to pay it.

[16] During the course of submissions, a second alternative argument was advanced by Ms. Sidhu and Real Deal. They argue that it would be unjust to compel the transfer of \$550,000 to Avis when it is still unknown whether there was a juristic reason for the payment of the Cheques. Ms. Sidhu and Real Deal submit that it will not be known until the determination of the Tax Action whether the funds were actually owing and therefore whether there is a juristic reason for the retention of those funds by Ms. Sidhu and Real Deal.

[17] However, in my view, this submission ignores the finding of fact in the Reasons that the tax debt was not the reason that the Cheques were provided. As stated above, I was not persuaded that Mr. Dhillon was paying the Cheques to satisfy a tax debt owed to Mr. Sidhu. Given that finding, there is no valid reason for the unjust enrichment award to be deferred pending the Tax Action.

[18] In my view, the substance of the argument made by Ms. Sidhu and Real Deal is that they ought to be able to retain the funds paid to them by Avis *in case* this Court makes an award in their favour in the Tax Action. As is well known, pretrial security for judgment is generally not available in our jurisprudence: see *Aetna Financial Services v. Feigelman*, [1985] 1 S.C.R. 2, 1985 CanLII 55 at paras. 8–9. It is not suggested that an exception to this principle such as a Mareva injunction or an order for the preservation of the subject matter of an action is warranted in this case.

[19] It is noted that Avis' position on this issue is additionally problematic because the parties in this action are different from those in the Tax Action. The unjust enrichment award at trial in this action required Ms. Sidhu and Real Deal to pay \$550,000 to Avis. In the Tax Action, Mr. Sidhu seeks reimbursement or compensation from Mr. Dhillon and another party, Caroline Hong, for taxes that Mr. Sidhu was required to pay to CRA.

[20] In my view, there is no valid reason to secure a claim advanced by Mr. Sidhu against Mr. Dhillon by denying the payment of funds due from Real Deal and Ms. Sidhu to Avis.

[21] Regarding the application advanced by Ms. Sidhu and Real Deal to reopen the trial, the passage set out below from the Court of Appeal's decision in *Bajwa v. Habib*, 2020 BCCA 230 is of assistance:

[48] ... Trial judges have a broad discretion to re-open a trial after judgment has been given, but it is a discretion that should be exercised rarely and only when the interests of justice clearly require prolonging the litigation in order to avoid a miscarriage of justice. For example, the discretion to re-open may be properly exercised by a trial judge who is satisfied that his or her original judgment contains material errors that may be corrected by further submissions, or where evidence has been overlooked or misconstrued, or where the law has been misapplied, or where the reasons for judgment failed to address an argument advanced at trial: *Grewal v. Grewal*, 2016 BCCA 237 at para. 86.

[22] In this case, for the reasons stated above, I am of the view that no miscarriage of justice would occur if the order sought by Ms. Sidhu and Real Deal were denied. Accordingly, the application advanced by them, to reopen the trial and to defer adjudication of the unjust enrichment claim until final disposition of the Tax Action is dismissed.

[23] I should note that in their Notice of Application, Real Deal and Ms. Sidhu also argue that Avis did not properly plead that it was entitled to a damages remedy arising from its unjust enrichment claim. The Amended Notice of Claim sought a constructive trust over the \$550,000 paid by way of the Cheques and did not seek an order for restitution. However, in oral submissions, counsel for Real Deal and Ms. Sidhu advised the Court that his clients were not taking the position that the unjust enrichment order made by the Court was precluded by any failure in the pleadings.

Avis' application to have the Court determine issues raised at trial but not addressed in the Reasons

[24] As stated, Avis seeks to have the Court deal with four issues that it says were argued before me at the trial but were not addressed in the Reasons.

[25] I agree that if there were issues argued before me that were not addressed in the Reasons, I should address them now.

[26] In *Idle-O Apartments Inc. v. Charlyn Investments Ltd.*, 2010 BCSC 132 [*Idle-O*], this Court held that it is a proper exercise of this Court's inherent jurisdiction to deal with an issue that was argued at trial but not dealt with in the reasons for judgment. Further, in *Bajwa*, the Court of Appeal held that the Court's discretion to re-open a trial may be properly exercised by a trial judge where the reasons for judgment failed to address an argument advanced at trial: para. 48.

[27] The parties agree that two of the issues raised by Avis may and ought to be addressed under the slip rule, being Rule 13-1(17) of the *Supreme Court Civil Rules*, B.C. Reg. 168/2009. Further, they agree how those issues ought to be addressed:

- a) First, it is ordered that Avis is entitled to prejudgment interest on the unjust enrichment award as of September 7, 2022, until the amount of the unjust enrichment is returned or otherwise extinguished.
- b) Second, it is ordered that if the sale of the Property turns a profit, Avis shall be entitled to share in 50% of that profit.

[28] There are two issues upon which the parties do not agree, both of which flow from the factual findings made in the Reasons that the Sidhus moved into the Property in November 2020 without the consent of, and indeed in the face of opposition from, the Property's second beneficial owner, Avis, and that the Sidhus had no legal entitlement to reside in the Property: para. 122. Despite these findings, I understand that the Property has not been sold as was ordered in the Reasons (para. 138), and that the Sidhu family continues to reside there.

[29] It is also of relevance to these issues that on September 9, 2020, Real Deal, without the consent of Avis, purported to convey the beneficial interest in the Property to Ms. Sidhu for \$2,700,000. In the Reasons (para. 98), I concluded that this purported sale was not valid, and that Avis' right to a share of the Property and to an accounting remained extant following that purported sale.

Characterization of the GST paid on the purported sale of the Property

[30] The first disputed issue relates to the GST paid to the tax authority on the transfer of the Property. At the time of the purported sale in September 2020, Ms. Sidhu paid GST based on a fair market value of \$2.7 million. In its closing submissions, Avis sought a declaration that the GST that Ms. Sidhu caused to be incurred by her family's decision to move into the Property was not an expense to be shared by Avis.

[31] Avis submits that the GST was triggered by Ms. Sidhu's unauthorized occupation of the house and therefore should not be characterized as a redevelopment expense. In response, Real Deal submits that regardless of what Ms. Sidhu did, the property would have sold at some point, therefore attracting GST, and therefore the GST ought to be considered a redevelopment expense.

[32] Generally speaking, the purchaser of a new house pays the GST, although there is some evidence in this case that the Property was being marketed before the trial to potential buyers at prices that included GST. It also appears possible that given the length of time that has elapsed since construction of the Property was completed in February 2018, the sale of the Property now would no longer require the payment of GST, as it would no longer be a new house.

[33] In my view, it is not possible to say, given the evidence that has been brought to my attention and the submissions of counsel, that GST would have been paid in respect of the Property in any event of Ms. Sidhu's conduct. Accordingly, I conclude that the GST was triggered by Ms. Sidhu's unauthorized occupation of the house and her ultimately unsuccessful claim that the beneficial interest in the Property had been sold to her.

[34] In those circumstances, it is my view that the GST should not be characterized as a redevelopment expense, and that Ms. Sidhu is not entitled to claim reimbursement from Avis of any part of the GST paid on the Property as a result of the purported sale in September 2020.

Occupational rent

[35] The second disputed issue concerns occupational rent. Avis says that occupational rent is payable because of Ms. Sidhu's unauthorized occupation of the house. At trial, it relied upon expert evidence, ultimately uncontested, regarding the estimated monthly rent that could have been charged for the Property starting November 1, 2020, when Ms. Sidhu and her family moved in.

[36] Avis properly concedes that it has only a 50% interest in the Property and therefore, if the Court finds in its favour on this issue, it is entitled only to 50% of the occupational rent determined for the relevant period.

[37] In their application response, Ms. Sidhu and Real Deal argue that the Court has "quite rightly refused this equitable relief" (that is, the occupational rent claim) but that is not a correct characterization of the Reasons, which contain no mention of occupational rent. I am satisfied that the principle set out in *Idle-O* applies and it would be a proper exercise of this Court's inherent jurisdiction to deal with this issue that was argued at trial but not dealt with in the Reasons.

[38] Ms. Sidhu and Real Deal advance two submissions regarding the merits of this claim. They submit, first, that the awarding of occupational rent is discretionary, and that the Court's discretion in this regard ought not to be exercised in the circumstances of this case; and second, that there are setoffs against occupational rent that must be accounted for, in that Ms. Sidhu has paid for improvements and has made other financial contributions to the Property since November 2020.

[39] It is clear from the authorities that determining whether to award occupational rent involves the exercise of judicial discretion to do equity between the parties in all the circumstances of the case: *Lennox v. Lennox*, 2022 BCCA 44 at para. 46.

[40] Ms. Sidhu and Real Deal take the position that the Court's discretion should not be exercised in this case because "the Court heard extensive, uncontradicted evidence that Ms. Sidhu and her family have borne all the carrying costs relating to [the Property] since the redevelopment [of the Property] was complete in early 2018". Avis submits that it would be "difficult, expensive and time consuming to compile all of the evidence necessary to establish these outlays", and that the Sidhus would also have a claim to compensation for certain supplemental mortgage payments they voluntarily made from the proceeds of sale of their previous residence.

[41] Avis does not oppose, in principle, the notion that certain contributions made by Real Deal or Ms. Sidhu will have to be offset against the occupational rent: indeed, at trial, Avis sought both occupational rent and an accounting.

[42] Regarding the exercise of this Court's discretion to impose occupational rent, the fact is that Real Deal owns only 50% of the beneficial interest in the Property but Ms. Sidhu and her family have lived there since November 2020. Subject to the issue of offsetting amounts paid by the Sidhus, I can see no reason why the Sidhus ought not to compensate Avis for, essentially, benefitting from Avis' equity in the Property.

[43] Further, in my view, it is not an answer to Avis' claim for occupational rent to say that it would be too difficult or expensive to determine the offsets. The alternative would be to assume that the offsets roughly equate to the occupational rent and to decline to address the issue further. However, I have been provided with no basis upon which the Court could confidently make that assumption. In the event that the occupational rent exceeds the valid offsets resulting from payments made by the Sidhus in respect of the Property, Avis is entitled to the difference.

[44] I have concluded that occupational rent should be payable to Avis by Ms. Sidhu and Real Deal in the amount of \$167,554 (50% of \$335,108) for the period November 1, 2020, to April 1, 2025, and \$3,106 (50% of \$6,212) per month

thereafter. The means by which any offsets to that amount are to be determined is described in the next section of these reasons.

Settlement of the Order from trial

[45] The Order arising from the trial and my Reasons has not yet been settled. Counsel for Avis has proffered a draft Order (the “draft Order”) that, in his submission, reflects the Reasons or ought to be made in light of the Reasons.

[46] Paragraphs 1, 2, 4, 5, and 7(a) of the draft Order are not disputed.

[47] Paragraph 3 relates to the characterization of the GST paid by Ms. Sidhu upon her purported purchase of the beneficial interest in the Property. I have addressed that issue above.

[48] As set out in the Reasons, Ms. Sidhu was entitled to elect to assume conduct of sale, on the basis that she would not then be entitled to bid on the Property. She has made that election. Therefore, para. 7(a) properly states that she has conduct of sale.

[49] Sub-paragraph 7(f)(ii) reflects the content of a report of the Registrar dated January 28, 2025, and it is also properly included in the Order.

[50] Sub-paragraph 7(f)(v) relates to occupational rent, and the Order should reflect the ruling that I have made earlier in these reasons. I note that the draft order proffered by counsel for Avis includes yearly increases in rent at percentages compliant with the *Residential Tenancy Act*, S.B.C. 2002, c. 78. However, these increased rent amounts were not sought at trial and, in my view, may not be sought now. The occupation rent shall be calculated as set out in the expert report relied on by Avis and as set out in Avis’ closing submissions at trial.

[51] Paragraphs 7(f)(vi) and (viii) are appropriately included because they reflect specific decisions made in respect of contested issues in the Reasons.

[52] The balance of the paragraphs in the draft Order are comprised of detailed terms that, Real Deal and Ms. Sidhu submit, are largely unnecessary and in some cases pre-empt a process set out in the Reasons for determining the ultimate financial outcome in this case. Subject to certain exceptions that will be described below, I agree with the assessment of those paragraphs by Real Deal and Ms. Sidhu.

[53] Paragraph 6 would require the transfer of 50% of the legal title to Avis, so that Avis' legal title corresponds with its beneficial interest. I have been provided with no compelling reason why this term is necessary, particularly since this Court has ordered that the Property be sold.

[54] Paragraph 7(e) and (f)(vii) are unnecessary and pre-empt the process which is set out in paras. 130–132 of the Reasons:

[130] I have concluded that the property shall be sold, Avis shall be paid \$469,140.37 less 50% of the total loss on the Property (if there is one) from the proceeds, and Real Deal shall receive the balance. The loss cannot be determined until the Property is sold and the amount of the sales proceeds is known, and the Registrar has certified the amount of the contributions made by Ms. Sidhu or Real Deal by way of interest on the RBC and Manulife lines of credit.

[131] Following a sale and a determination of the lines of credit interest attributable to the redevelopment, if the parties are unable to agree to the distribution of the proceeds, the calculation of the loss on the project shall also be referred to the Registrar for determination in accordance with these reasons. Pursuant to R. 18-1(3), I direct that the result of the assessment or accounting be certified by the Registrar.

[132] In the event that Real Deal wishes to have an opportunity to purchase the house, Avis shall have conduct of sale. In the event that Real Deal declines that opportunity, it shall have conduct of sale. Under either scenario, the party without conduct of sale shall cooperate and take all reasonable steps required to enable the Property to be sold in a timely way.

[55] As stated, the calculation of the loss on the project shall be referred to the Registrar for determination in accordance with the Reasons. The credits referred to in para. 7(e) and (f)(vii) may be considered by the Registrar in determining the profit or loss on the project, but they are not matters specifically determined in the Reasons.

[56] Paragraph 7(f)(i), (iii), (iv) and (ix) are contested terms relating to amounts that might be offset against occupational rent, due to payments or contributions made by Ms. Sidhu or Real Deal to the Property since November 2020. As discussed above, there is no dispute in principle that the occupational rent must be offset against “mortgage payments or other contributions”. The disputes concern the nature and amount of the offsets. However, as the Reasons did not address the issue of occupational rent at all, they did not address the applicable offsets or how those might be determined. It is premature to include the offsets in the Order.

[57] If the parties are unable to agree on the offsets, their disputes in this regard shall be referred to the Registrar, at least at first instance, both as to whether amounts contributed by Ms. Sidhu or Real Deal were contributions that benefitted the Property or just the Sidhu family, and as to the quantification of those amounts. Pursuant to R. 18-1(2), I direct that the result of this inquiry be certified by the Registrar.

[58] Paragraph 7(b), (c) and (d) of the draft Order contain terms governing the conduct of sale of the property. In my view, the proposed terms are unnecessary and overly detailed, but after hearing the submissions of counsel I am persuaded that some direction with regard to the sale of the Property is required.

[59] As disputes have arisen about who is entitled to make decisions regarding the acceptance of offers, I order that any sale of the Property pursuant to the conduct of sale shall be subject to the agreement of the parties or approval of the Court.

[60] I order that any offers on the Property must be shared with Avis through its counsel within 48 hours of their receipt.

[61] I also order that the parties are at liberty to apply for further directions concerning the sale of the Property. In particular, but without limitation, if several more months pass without an offer having been brought to the Court for approval, I will want to hear from the parties regarding the status of the sales process.

[62] I shall be seized of any further applications in this action although if a matter is urgent and I am not available, the parties have leave to appear before another Justice of this Court.

[63] As stated in the Reasons, the parties shall bear their own costs of the action.

Costs of this application

[64] Ms. Sidhu and Real Deal were unsuccessful in respect of their application while Avis was substantially successful in respect of its application, having succeeded on two of the three main issues raised by it.

[65] Accordingly, costs of both applications shall be payable by Ms. Sidhu and Real Deal to Avis at scale B in any event of the cause.

“Loo J.”