

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Tennant v. Dhillon*,
2025 BCCA 313

Date: 20250902
Dockets: CA50539; CA50568

Between:

Richard Tennant and Mercedes Gloria Flores

Appellants
(Respondents)

And

**Parminder Kaur Dhillon, Jasmine Dhillon, Najwa Salameh,
and 1217487 B.C. Ltd.**

Respondents
(Petitioners)

And

Burnaby Blacktop Ltd. and John Doe

Respondents
(Respondents)

Before: The Honourable Mr. Justice Harris
The Honourable Madam Justice Horsman
The Honourable Justice MacNaughton

On an application to vary: An order of the Court of Appeal for British Columbia,
dated July 11, 2025 (*Tennant v. Dhillon*, Vancouver Dockets CA50539; CA50568).

Oral Reasons for Judgment

The Appellant, appearing in person, and on
behalf of M. Flores:

R. Tennant

Counsel for the Respondents, Parminder
Kaur Dhillon, Jasmine Dhillon, Najwa
Salameh, and 1217487 B.C. Ltd.:

J.E. Shragge

Counsel for Respondents, Samer Daibess
and Oula Daibess:

M. Nied

Place and Date of Hearing:

Vancouver, British Columbia
September 2, 2025

Place and Date of Judgment:

Vancouver, British Columbia
September 2, 2025

Summary:

The applicants apply to vary or cancel the order of a justice in chambers dismissing their application for leave to appeal orders made in a foreclosure proceeding. Held: The application is dismissed. The justice exercised his discretion in a principled manner in refusing leave to appeal. There is no basis for a review division to intervene.

[1] **HORSMAN J.A.:** The applicants apply under s. 29 of the *Court of Appeal Act*, S.B.C. 2021, c. 6, to vary or cancel an order made by Justice Butler in chambers (the “chambers judge”), dismissing their application for leave to appeal orders made in a foreclosure proceeding.

Background

[2] In his unpublished reasons issued on July 7, 2025, the chambers judge concisely summarized the relevant factual background:

[4] The dispute underlying this appeal has been the subject of considerable litigation and court time. In brief, the appellants granted a mortgage to the respondents. On February 18, 2023, the mortgage matured but the appellants defaulted when they failed to repay the mortgage debt.

[5] On September 23, 2023, the respondents commenced foreclosure proceedings. On December 14, 2023, the Supreme Court granted an order nisi with a six-month redemption period.

[6] Several orders followed. This included an order by Associate Judge Nielsen, dated January 15, 2025, approving the sale of the property and requiring vacant possession of the property be delivered to the Purchasers on February 11, 2025 (the “Vesting Order”).

[7] Before Associate Judge Nielsen, the appellants did not oppose the Vesting Order. However, they did seek extra time to secure financing. Associate Judge Nielsen delayed implementation of the order for a week to allow the appellants additional time to attempt to secure financing. However, the appellants’ attempts to obtain new financing failed.

[8] Having failed to secure financing, the appellants appealed the order to the Supreme Court on January 23, 2025. On February 7, 2025, the appeal was adjourned and the appellants did not seek to stay execution of the Vesting Order.

[9] On February 10, 2025, the Purchasers paid the agreed purchase price, registered the Vesting Order, and received a conveyance of the title.

[10] On February 19, 2025, the appeal was heard before Justice Ball. He dismissed the appeal (the “Ball Decision”).

[11] On February 26, 2025, the appellants applied to stay the order for vacant possession, ostensibly, so they could pursue an appeal of Justice

Ball’s order. On February 27, 2025, Justice Lamb heard and dismissed the stay application (the “Lamb Decision”).

[12] On or about March 19, 2025, bailiffs executed a writ of possession to remove the appellants’ remaining possessions from the property.

[13] As noted, the appellants now seek leave to appeal the Ball Decision, the Lamb Decision, and have sought an extension of time to file materials in that regard.

[3] At the hearing before the chambers judge, the applicants advised that they sought leave to appeal both the “Ball Decision” (dismissing their appeal of the order approving sale and requiring vacant possession) and the “Lamb Decision” (refusing to stay the order for vacant possession while they pursued an appeal of the Ball Decision). They sought an extension of time to file application material in relation to the Lamb Decision. The chambers judge advised the applicants that he would hear their application for leave to appeal the Ball Decision, and that it may or may not be necessary to deal with the application with respect to the Lamb Decision. The chambers judge permitted the applicants to advance arguments in respect of both Decisions.

The chambers judgment

[4] The chambers judge set out the well-established criteria that guide the exercise of the Court’s discretion on an application for leave to appeal, with the interests of justice being the ultimate consideration. The relevant criteria include:

- a) whether the point on appeal is of significance to the practice of law;
- b) whether the point raised is of significance to the action itself;
- c) whether the appeal is *prima facie* meritorious; and
- d) whether the appeal will unduly hinder the progress of the action.

[5] The chambers judge stated his understanding that the applicants challenged the Ball Decision on the basis that Justice Ball ought to have given them additional time to secure financing to redeem the mortgage. He also understood the applicants to argue that the purchase price approved by the court, following a competitive bid

process, was unfair and the property should have been valued as if had been redeveloped in accordance with their plans. The chambers judge explained his reasons for rejecting these arguments:

[18] In my view, none of these arguments have merit. Their failure to secure financing is not grounds for further delaying the enforcement of a lawful order that they did not oppose. Similarly, I see no issue with Justice Ball's decision to confirm the sale of the property at the price set by a competitive bid process, rather than on the basis of a speculative, future value.

[6] For the same reasons, the chambers judge found that the appeal from the Ball Decision did not raise any issue of importance to the practice of law, given that the procedure for enforcing foreclosures is well-settled.

[7] Regarding the decision of Justice Lamb refusing to stay the order for vacant possession, the chambers judge stated:

[20] Although submissions have not been made directly regarding the Lamb Decision, any challenge to the decision would be contrary to well-settled law and the interests of justice. As the respondents point out, this Court has consistently found that where an appellant-mortgagor has failed to obtain a stay of execution before the court-approved purchasers have paid the purchase price and registered the vesting order, the interests of justice will rarely, if ever, favour granting leave to appeal: see, e.g., *Galway Capital Corp. v. Nikolov*, 2005 BCCA 375; *Urban Land Holdings Ltd. v. Babich*, 2020 BCCA 210 (Chambers).

[21] In the present case, the Purchasers paid the purchase price, registered the Vesting Order, and received conveyance of the title on February 10, 2025, all in accordance with the Vesting Order that was uncontested by the appellants.

[22] Only on February 26 did the appellants apply for a stay, and only in relation to the order for vacant possession.

[23] As Justice Lamb correctly pointed out, the Purchasers already owned the property at the time of the stay application. They had mortgaged the property, arranged for utilities, and obtained home insurance. As she put it, "a stay of the order for vacant possession would keep the purchasers out of property they own and would allow strangers to live in their house".

[24] This is precisely what happened. The Purchasers did not obtain possession of the property until late March 2025. This was despite the fact that the Purchasers were the ones paying the mortgage, utilities and other expenses and bearing the risks in relation to the property in the interim.

[8] Paraphrasing the reasoning of this Court in *Galway Capital Corp. v. Nikolov*, 2005 BCCA 375, the chambers judge concluded that if any equitable jurisdiction remained after payment of the sale price by the purchasers and transfer of title to them, the applicants were not in a position to invoke it. He stated that “this is a foreclosure action that has run its full course and must be brought to an end”: at para. 25.

[9] Therefore, the chambers judge concluded that it was not in the interests of justice to grant leave to appeal the Ball Decision. Given that he was dismissing the application for leave to appeal the Ball Decision, the chambers judge found it unnecessary to consider the application with respect to the Lamb Decision.

The variation application

[10] The standard of review on an application for an order varying or cancelling an order of a justice in chambers is highly deferential. For a review division to interfere with the order of a justice, the appellant must demonstrate that the chambers justice was wrong in law, wrong in principle, or misconceived the facts. If such errors are not demonstrated, the application must be dismissed: *Seattle Environmental Consulting Ltd. v. Workers’ Compensation Board of British Columbia*, 2017 BCCA 386 at paras. 5–7.

[11] In their written submissions on the variation application, the applicants assert a variety of “errors” by the chambers judge that are difficult to follow and go beyond the issues pertaining to their application to apply for leave to appeal the Ball Decision. The applicants appear to take issue with: the terms of the mortgage; the status of the property, and whether it is agricultural land governed by a federal statute; the “economically negligent” conduct of the respondents; the manner in which the building permit for the property was issued and the insurance requirements imposed by the permit; and the applicants’ “premature sacrifice” of a \$100,000 bond on the property. The orders they seek include not only a variation of the order of the chambers judge, but also monetary remedies against the respondents, the realtors, and the City of Coquitlam, along with an order that the

City of Coquitlam be required to intervene on their appeal. None of these issues are properly before us, nor were they properly before the chambers judge.

[12] In their oral submissions, the applicants additionally argued that there were grounds to challenge the validity of the vesting order. This is also not an issue properly before us on the variation application.

[13] The only issue for the chambers judge was whether leave should be granted to the applicants to appeal the Ball Decision dismissing their appeal of Associate Judge Nielsen's order approving the sale and ordering vacant possession of the property. As the chambers judge noted, the applicants did not oppose the orders that the respondents sought before Associate Judge Nielsen. Instead, they asked for a brief extension of time to secure financing, which Associate Judge Nielsen granted. The applicants were unable to secure financing. Subsequently, the purchasers have paid the purchase price, registered the vesting order, and received conveyance of title.

[14] The chambers judge described the relevant background circumstances. He stated the well-established test on an application for leave to appeal. He addressed the applicants' arguments, as they related to the issues before him on the application. Specifically, the chambers judge addressed the applicants' arguments that: (1) Justice Ball should have given them additional time to secure financing; and (2) the purchase price was not provident because the property should have been valued as if it had been redeveloped in accordance with their plans. The chambers judge explained his reasons for rejecting these arguments.

[15] To the extent that the applicants' arguments on the application to vary relate to matters properly in issue in this Court, they reflect the applicants' disagreement with the decision of the chambers judge but do not identify errors in his analysis. The chambers judge did not misconceive the facts, he stated the correct law, and he exercised his discretion in a principled manner.

[16] While I appreciate that the applicants are genuinely upset about the circumstances they find themselves in, I see no basis upon which a division of this Court could properly intervene in the chambers judge's exercise of discretion. Therefore, I would dismiss the application to vary or cancel the order of the chambers judge.

[17] **HARRIS J.A.:** I agree

[18] **MACNAUGHTON J.A.:** I agree.

[19] **HARRIS J.A.:** The application to vary or cancel the order of the chambers judge is dismissed.

“The Honourable Madam Justice Horsman”