

# IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Chase Gamble Homes Inc. v. Kehler*,  
2026 BCSC 145

Date: 20260129  
Docket: S96805  
Registry: Nanaimo

Between:

**Chase Gamble Homes Inc.**

Plaintiff

And

**Darcy Allen Kehler and Krystal Ritchie**

Defendants

And

**Tim Maertz doing business as TM Building Designs  
and also known as THM Building Designs**

Third Party

Before: The Honourable Justice Thompson

## **Reasons for Judgment**

Counsel for the Plaintiff:

R. Peters

The Defendants, appearing in person:

D. Kehler  
K. Ritchie

Counsel for the Third Party:

J. Coleman

Place and Dates of Hearing:

Nanaimo, B.C.  
September 4, 2025  
December 5, 2025

Place and Date of Judgment:

Nanaimo, B.C.  
January 29, 2026

[1] This is a summary trial application in a builder's lien action. I agree with the parties that despite some conflicting affidavit evidence, this case is suitable for summary trial.

[2] The plaintiff contracted with the defendants to build a stand-alone garage on their property. It rendered an invoice for \$18,245 after termination of the contract, and it claims for this sum plus interest and costs. The defendants' position is that the plaintiff quit the job and is not entitled to this contractual payment; in the alternative, they claim an entitlement to set-off an equal amount for damages for the plaintiff's breach of contract. And, the defendants filed a third-party notice, asserting that if they are liable to pay the plaintiff then the designer that prepared the plans for the garage ought to indemnify them. The third party denies liability.

[3] The outcome on this case is determined by events on 15 June 2022 when Chase Gamble, the principal of the plaintiff, met with the defendants to discuss their emerging concerns. The defendants were unhappy that the pitch of the partially installed roof trusses on the garage did not match the pitch of the roof on their residence; the defendants were also troubled about the limited storage space in the garage attic, and that no drop-down stairs had been built into the attic.

[4] Each side argues that the other terminated their contract on that day. The plaintiff submits that the defendant Ritchie "fired his plaintiff's crew," which amounted to bringing the contract to an end. Later that day, the plaintiff sent the \$18,245 invoice. The defendants submit that in fact Mr. Gamble advised them that his crew had quit, and he was backing them. The plaintiff left the job site, ending the contract, and that same day sent its "final invoice."

[5] For reasons that I will explain, I find that it was the plaintiff that repudiated the contract, and that this repudiation was accepted by the defendants. Consequently, the plaintiff is disentitled to pursue its contractual claim for \$18,245.

## **The Contract**

[6] Following the issuance of a building permit in November 2021, the plaintiff and the defendants entered into a written contract on 9 February 2022. The essence of the agreement is that in exchange for the plaintiff's overall project management and supervision of construction, the defendants would pay a fee of \$10,000 plus all invoices presented by the plaintiff for sub trade costs within two weeks of receipt. The \$10,000 project management fee was to be paid in four equal instalments: the first as a deposit prior to commencement of the project, the second "at foundation", the third at lockup, and the final instalment on issuance of an occupancy permit.

[7] The contract's preamble and description of the project are inapt in the sense that they describe the project as the construction of a residential home, and I think that some of these project management fee milestones reflect an imperfect adaptation of a contract for construction of a home. However, nothing turns on these contractual oddities.

## **The Termination of the Contract**

[8] The building of the garage was in progress, and the defendants ordered the roof trusses from a supplier. They signed off on images of the trusses before the trusses were built. On 14 June 2022, after the trusses were partially installed, the defendants noticed that the roofline on the garage did not match the roofline on their residence. There is much evidence in the record about who was at fault for this mismatch, but on my view of the case it is unnecessary to make findings on this issue.

[9] The evidence in the record that bears on the termination of the contract includes the affidavits of Mr. Gamble and three crew members, and the affidavits of each of the defendants. I find the following facts bearing on the termination of the contract:

1. Mr. Gamble met with the defendants at their house on the property on the morning of 15 June 2022 to discuss the defendants' concerns. The

plaintiff's crew was already onsite and continuing some work on the garage.

2. During this meeting at the house, the defendants expressed their concerns about the pitch of the garage roof, and their concerns about the attic storage and access.
3. Mr. Gamble described the parties' choices. He said that he could choose to quit the job. Or, an option presented to the defendants was to continue the job as is, without changes. He explained that while the trusses could be removed, and new trusses built with the pitch matching the house, this option was likely to cause much delay and much additional expense; the defendants did not perceive it, as presented, as being a realistic choice.
4. The defendants were unhappy, but felt they had little choice but to stay the course and they told Mr. Gamble that they would have him continue as is. And, because the plaintiff was to continue with the job, they raised issues they had with the plaintiff crew's work ethic. Mr. Gamble left the defendants at the house, and went to where the garage was situated on the property to speak to the crew.
5. Mr. Gamble conferred with this crew. He told them that the defendants were complaining that the roof pitch on the garage was wrong. The crew began doing some clean up and packing up their tools. After conferring with his crew, Mr. Gamble sent a text to the defendants asking them to meet him by the garage.
6. There was further discussion between Mr. Gamble and the defendants about the problem with the trusses, and the defendants' issues with the crew. Some of this discussion was heated, and some of the language used by the defendant Kehler was insulting to the crew and overheard by them. Mr. Gamble told the defendants that the crew had quit and he was backing

them; he also assured them that he would find them a replacement contractor who could finish the job.

7. Two of the three crew members joined the conversation with the defendants and voiced their displeasure. Near the end of this exchange, the defendant Ritchie – having been earlier advised by Mr. Gamble that he was backing the crew’s decision to quit – told the crew that she hoped that when they left it would not be with hard feelings.
8. At this point, Mr. Gamble indicated that his crew should get back on the roof so he could try to resolve the situation, but the defendant Ritchie said “No, you are outta here.”
9. The plaintiff left the job site, and Mr. Gamble sent an email that afternoon attaching his “final invoice” and said:

Sorry things went so south so quickly today.  
I am sure everyone on both sides regrets some words that were spoken.  
I apologize for my part.

As promised I have reached out to my friend Graeme to complete the job.  
He is working on movie set today and will call me back later to chat.  
Very capable carpenter/builder that does smaller jobs for me.

I did not charge for my hours running the machine for 2 days or my hours working on the roof to hopefully compensate and clearly articulate my regret and disappointment.

My crew is young, inexperienced and learning.  
I will keep teaching and training and have confidence that they will keep progressing.  
Some one has to teach them, and I will stand by them.  
Feel free to keep the 1x8 forms or I can have them picked up. We used a few in the trusses already as they make good strapping.

[10] Some of these facts were the subject of conflicting evidence, others were not. For the contentious findings, I will endeavour to explain why I have found as I have.

[11] On the issue of the number of options discussed at the house on the morning of 15 June 2022, I accept Mr. Gamble’s assertion in his second affidavit at para. 96 that he offered three “solutions”, but I consider it likely that the defendants perceived

there to be only two realistic paths available given the description provided by Mr. Gamble of the costs and delay involved in resolving their issues.

[12] I turn to the finding that Mr. Gamble told the defendants (when they were in the further discussion at the garage) that his crew had quit. Mr. Gamble's version of the material part of this conversation is that he told the defendants that his crew was upset and "were ready to walk off the job." When Mr. Gamble went into the meeting at the house, I think it likely that he was less than eager to continue with this small project, but he was prepared to carry on if the clients agreed to resume building it in accordance with the existing plans. The defendants agreed to proceed on this basis, but I am sure it was clear to Mr. Gamble that he had unhappy clients on his hands. And, I think it highly likely that when the defendants added on complaints about the plaintiff's young crew, Mr. Gamble had had enough of this small job with its scant further profits and very unhappy clients.

[13] I accept the evidence of the crew members that they did not tell Mr. Gamble that they were quitting – it would be surprising if these young apprentices had done so (or that they were "ready to walk off the job"), even if Mr. Gamble told them about the defendants' complaints about their work ethic. But I accept the evidence of each defendant that Mr. Gamble told them after his conference with his workers that the workers had quit. I think the surrounding probabilities make it more likely that Mr. Gamble had resolved to leave the job and told this fib as a way to exit, than the alternative that the defendants' evidence on this point being fabricated.

[14] The fact that the crew began cleaning up and packing up when they did is consistent with them getting the message that they were not going to be carrying on with building the garage as is – and there is no controversy that this was the decision that had been made by the defendants at the house. This piece of evidence is more consistent with Mr. Gamble having decided to leave the job and not carry on.

[15] It is hard to know whether Mr. Gamble's indication to the crew, near the end of the 15 June 2022 interactions, to get back to the garage roof evidences an effort to avoid further confrontation between the crew and the defendants, or a possible

reconsideration of his decision to leave the job. In any event, having told the defendants that his crew had quit and he was backing them, Mr. Gamble made it plain to the defendants that the plaintiff was ending the contract.

[16] In these circumstances, when Ms. Ritchie responded to the indication that the crew should get back on the roof by saying, “No, you are outta here,” I agree with the defendants that her statement reflected the fact that the contract had ended. Her words made sense in the circumstances: their concerns had not been addressed, the crew had unloaded their frustrations on the defendants, and, most importantly, Mr. Gamble had told them that the crew had quit and he was backing them. Translated into legal terms, Ms. Ritchie’s statement was a clear expression of the defendants’ acceptance of the plaintiff’s repudiation of the contract.

[17] The legal framework that applies to this situation is straightforward, and was summarized by Justice Sewell in *0731431 B.C. Ltd. v. Panorama Parkview Homes Ltd.*, 2021 BCSC 607:

[388] The law is well-settled that a party alleging that a contract has come to an end by virtue of a repudiation must demonstrate that the conduct of the other party evinced an unequivocal intention not to be bound by the terms of the agreement, and that the innocent party had accepted and communicated an acceptance of the repudiation to the party in breach: G.H.L. Fridman, *The Law of Contract in Canada*, 6th ed. (Toronto: Thomson Reuters Canada, 2011) at 585-6 [Fridman]; *Doman Forest Products Ltd. v. GMAC Commercial Credit Corp. Canada*, 2007 BCCA 88.

[18] The first question on the facts as I have found them is whether the plaintiff repudiated the contract by evincing an unequivocal intention not to perform its fundamental obligations under the contract. I find that when Mr. Gamble told the defendants that his crew was quitting and that he was backing them, in the context of having presented as one “solution” the quitting of the job by the plaintiff, that this was a repudiation of the contract by an unequivocal refusal to continue with the most essential obligation: building the garage.

[19] The second question is whether the innocent parties accepted and communicated to the party in breach an acceptance of the repudiation. As I have

already said, this was accomplished before Mr. Gamble and the plaintiff's crew left the property. And, nothing was said or done by the defendants, including in response to the presentation of an invoice by the plaintiff later that day, that demonstrated any equivocation in the defendants' acceptance of the repudiation.

[20] To be clear, I reject the plaintiff's submission that its actions were a consequence of the defendants ending the contract by "firing" its crew.

[21] In circumstances where one party has repudiated the contract and the repudiation has been accepted, the innocent party may elect to "put an end to all primary obligations of both parties remaining unperformed": *Hunter Engineering Co. v. Syncrude Canada Ltd.*, [1989] 1 S.C.R. 426 at 500. See also *Mantar Holdings Ltd. v. 0858370 B.C. Ltd.*, 2014 BCCA 361 at para. 11.

[22] The primary obligation of the defendants was to pay amounts due to the plaintiff under the contract as and when due. The defendants were fully paid up at the time of the repudiation – they had paid all invoices presented prior to that time. Because of the plaintiff's repudiation, the defendants' obligations under the contract were at an end including any obligation to pay the invoice presented by the plaintiff on 15 June 2022.

### **Summary**

[23] The plaintiff's action is dismissed. If the claim of lien is still registered against the defendants property it shall be discharged. The defendants' counterclaim and the third-party proceeding are dismissed as moot.

[24] Costs may be spoken to.

"Thompson J."