

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Wills v. Garcha*,
2026 BCCA 56

Date: 20260121
Dockets: CA50758; CA50759;
CA50760; CA50761; CA50762

Docket: CA50758

Between:

**Douglas William Wills, Balbir Kaur Dale, Ranjit Singh Sangha,
and Svender Singh Sangha**

Appellants
(Defendants)

And

Daljit Singh Garcha and Jaswinder Kaur Garcha

Respondents
(Plaintiffs)

And

**Parmjit Kaur Sangha, Raveen Sangha, Grewal Management Ltd.,
Jasprit Singh Grewal, 690174 B.C. Ltd., and Crowe MacKay & Company Ltd.,
in its capacity as Trustee in Bankruptcy of Jaswant Singh Sangha,
Panorama Parkview Homes Ltd. and 690174 B.C. Ltd.**

Respondents
(Defendants)

And

**Onkar Malli, Manmeet Malli, Joginder Chahal, Malkiat Bains, Harjinder Bassi,
Gurcharan Sandhu, Gurmit Sidhu, Manisha Sidhu, Sumit Sidhu,
0731431 B.C. Ltd., Daljit Singh Mattu, 0892995 B.C. Ltd.,
and Rajpreet Singh Sangha**

Respondents
(Non-Parties)

- and -

Docket: CA50759

Between:

**Douglas William Wills, Balbir Kaur Dale, Ranjit Singh Sangha,
and Svender Singh Sangha**

Appellants
(Defendants)

And

**0731431 B.C. Ltd., Daljit Singh Mattu, 0892995 B.C. Ltd.,
Rajpreet Singh Sangha, Grewal Management Ltd.,
and Jasprit Singh Grewal**

Respondents
(Plaintiffs)

And

**Parmjit Kaur Sangha, Jaswant Singh Sangha, Panorama Parkview Homes Ltd.,
690174 B.C. Ltd., and Crowe MacKay & Company Ltd.,
in its capacity as Trustee in Bankruptcy of Jaswant Singh Sangha,
Panorama Parkview Homes Ltd. and 690174 B.C. Ltd.**

Respondents
(Defendants)

And

**Raveen Sangha, Daljit Singh Garcha, Jaswinder Kaur Garcha, Onkar Malli,
Manmeet Malli, Joginder Chahal, Malkiat Bains, Harjinder Bassi,
Gurcharan Sandhu, Gurmit Sidhu, Manisha Sidhu, and Sumit Sidhu**

Respondents
(Non-Parties)

- and -

Docket: CA50760

Between:

**Douglas William Wills, Balbir Kaur Dale, Ranjit Singh Sangha,
and Svender Singh Sangha**

Appellants
(Creditors/Interested Parties)

And

690174 B.C. Ltd.

Respondent
(Bankrupt)

And

**Crowe MacKay & Company Ltd., in its capacity as Trustee in Bankruptcy
of 690174 B.C. Ltd.**

Respondent
(Bankruptcy Trustee)

And

**Daljit Singh Garcha, Jaswinder Kaur Garcha, Parmjit Kaur Sangha,
Raveen Sangha, Grewal Management Ltd., Jasprit Singh Grewal, Onkar Malli,
Manmeet Malli, Joginder Chahal, Malkiat Bains, Harjinder Bassi,**

**Gurcharan Sandhu, Gurmit Sidhu, Manisha Sidhu, Sumit Sidhu,
0731431 B.C. Ltd., Daljit Singh Mattu, 0892995 B.C. Ltd.,
Rajpreet Singh Sangha, Crowe MacKay & Company Ltd.,
in its capacity as Trustee in Bankruptcy of
Panorama Parkview Homes Ltd. and Jaswant Singh Sangha**

Respondents
(Creditors/Interested Parties)

- and -

Docket: CA50761

Between:

**Douglas William Wills, Balbir Kaur Dale, Ranjit Singh Sangha,
and Svender Singh Sangha**

Appellants
(Creditors/Interested Parties)

And

Panorama Parkview Homes Ltd.

Respondent
(Bankrupt)

And

**Crowe MacKay & Company Ltd., in its capacity as Trustee in Bankruptcy
of Panorama Parkview Homes Ltd.**

Respondent
(Bankruptcy Trustee)

And

**Daljit Singh Garcha, Jaswinder Kaur Garcha, Parmjit Kaur Sangha,
Raveen Sangha, Grewal Management Ltd., Jasprit Singh Grewal, Onkar Malli,
Manmeet Malli, Joginder Chahal, Malkiat Bains, Harjinder Bassi,
Gurcharan Sandhu, Gurmit Sidhu, Manisha Sidhu, Sumit Sidhu,
0731431 B.C. Ltd., Daljit Singh Mattu, 0892995 B.C. Ltd.,
Rajpreet Singh Sangha, Crowe MacKay & Company Ltd.,
in its capacity as Trustee in Bankruptcy of
690174 B.C. Ltd. and Jaswant Singh Sangha**

Respondents
(Creditors/Interested Parties)

- and -

Docket: CA50762

Between:

**Douglas William Wills, Balbir Kaur Dale, Ranjit Singh Sangha,
and Svender Singh Sangha**

Appellants
(Creditors/Interested Parties)

And

Jaswant Singh Sangha

Respondent
(Bankrupt)

And

**Crowe MacKay & Company Ltd., in its capacity as Trustee in Bankruptcy
of Jaswant Singh Sangha**

Respondent
(Bankruptcy Trustee)

And

**Daljit Singh Garcha, Jaswinder Kaur Garcha, Parmjit Kaur Sangha,
Raveen Sangha, Grewal Management Ltd., Jasprit Singh Grewal, Onkar Malli,
Manmeet Malli, Joginder Chahal, Malkiat Bains, Harjinder Bassi,
Gurcharan Sandhu, Gurmit Sidhu, Manisha Sidhu, Sumit Sidhu,
0731431 B.C. Ltd., Daljit Singh Mattu, 0892995 B.C. Ltd.,
Rajpreet Singh Sangha, Crowe MacKay & Company Ltd.,
in its capacity as Trustee in Bankruptcy of
Panorama Parkview Homes Ltd. and 690174 B.C. Ltd.**

Respondents
(Creditors/Interested Parties)

Before: The Honourable Justice Griffin
(In Chambers)

On appeal from: Orders of the Supreme Court of British Columbia, dated
May 15, 2025 (*Garcha v. 690174 B.C. Ltd.; 0731431 B.C. Ltd. v. Panorama
Parkview Homes Ltd.; 690174 B.C. Ltd. (Re); Panorama Parkview Homes Ltd. (Re);
and Jaswant Singh Sangha (Re)*, Vancouver Dockets S151275; S142529; B160406;
B160405; and B150826).

Oral Reasons for Judgment

Counsel for the Appellants: K. Friesen

Counsel for the Respondents, Daljit Singh Garcha and Jaswinder Kaur Garcha: G.A. Phillips

Counsel for the Respondent, Crowe MacKay & Company Ltd., in its capacity as Trustee in Bankruptcy of Jaswant Singh Sangha, Panorama Parkview Homes Ltd. and 690174 B.C. Ltd.: J.P. Sullivan

Counsel for the Respondents, Onkar Malli, Manmeet Malli, and Joginder Chahal: B.S. Khatra

Place and Date of Hearing: Vancouver, British Columbia
January 19, 2026

Place and Date of Judgment: Vancouver, British Columbia
January 21, 2026

Summary:

The applicants seek an extension of time to serve notices of appeal. They contend that the delay in service was due to their counsel's error. Held: Application dismissed. It is not in the interests of justice to grant the extension. There was an inordinate delay of over six months in bringing the extension application. An extension would cause undue prejudice to the respondents, who have been involved in litigation that began over a decade ago.

GRIFFIN J.A.:**Nature of the application**

[1] The applicants and proposed appellants, Douglas William Wills, Balbir Kaur Dale, Ranjit Singh Sangha, and Svender Singh Sangha (the "Applicants") seek an extension of time to serve notices of appeal from orders made on May 15, 2025.

[2] The main ground is that their counsel made an error in believing that the deadline for serving the notices of appeal was different from the deadline for filing them. He filed them 30 days after the order under appeal but did not serve them until eight days later.

[3] The respondents oppose the application.

[4] For the reasons that follow, I dismiss the application. This makes it unnecessary to deal with an ancillary service issue raised in the application.

Background

[5] This litigation is complex and spans more than decade, commencing in 2014.

[6] The reported decisions in this matter include: *Panorama Parkview Homes Ltd. (Re)*, 2017 BCSC 2064; *Panorama Parkview Homes Ltd. (Re)*, 2017 BCSC 2071; *Sangha (Re)*, 2018 BCSC 137; *Sangha (Re)*, 2018 BCSC 1049; *0731431 B.C. Ltd. v. Panorama Parkview Homes Ltd.*, 2021 BCSC 607 ("Trial Decision #1"); *0731431 B.C. Ltd. v. Panorama Parkview Homes Ltd.*, 2021 BCSC 1925 ("Trial Decision #2"); *Sangha (Re)*, 2022 BCSC 286; *Crowe Mackay & Company Ltd. v. 0731431 B.C. Ltd.*, 2022 BCCA 158 (Chambers); *Garcha v.*

690174 B.C. Ltd., 2022 BCCA 178; *Crowe MacKay & Company Ltd. v. 0731431 B.C. Ltd.*, 2022 BCCA 436 (Chambers); *Garcha v. 690174 B.C. Ltd.*, 2023 BCCA 376 (“Main Appeal”); *0731431 B.C. Ltd. v. Panorama Parkview Homes Ltd.*, 2024 BCSC 614; and *0731431 B.C. Ltd. v. Panorama Parkview Homes Ltd.*, 2024 BCSC 2357 (“Costs Assessment”).

[7] It is unnecessary to review the history in detail for purposes of today’s application. My review of the background will therefore be quite general.

[8] The proposed appeals arise from orders (the “Distribution Orders”) distributing from trust, proceeds of sale of real estate (the “Sales Proceeds”) and funds received from a court-ordered refund of Trustee fees (the “Trustee-Fee Refund”) (collectively, the “Trust Proceeds”).

[9] The origin of the proceedings is a five-lot subdivision project in Surrey (the “Project”), which had numerous investors and joint venture interests.

[10] In relation to the Project:

- a) Daljit Singh Garcha and Jaswinder Kaur Garcha (the “Garcha Parties”) sued a number of defendants in a civil action. The Applicants were among the named defendants. Three of the named defendants, but not the Applicants, were the subject of bankruptcy proceedings, and the Trustee acted as the Trustee in Bankruptcy (the “Trustee”).
- b) Another group of plaintiffs, described as the Grewal Parties, also started a civil action against several of the same defendants, including the Applicants.
- c) The Trustee denied the claims in bankruptcy advanced by the Garcha Parties and the Grewal Parties, so those parties brought appeals in the trial court from those notices of disallowance. The Trustee defended the appeals and defended the civil actions.

[11] Ultimately, the two civil actions and the appeals of the three bankruptcy disallowances were heard together by Justice Sewell in a trial that lasted over 100 days.

[12] In the litigation there were several competing proprietary claims against the properties in the Project. The properties were sold and funds were placed in trust, constituting the Sales Proceeds. The Trustee obtained a court order permitting it to charge its fees against those trust funds.

[13] In the Trial Decision #1, made April 1, 2021, Sewell J. decided, among other things, which parties had interests in the properties that were the subject of the Project and their percentage interests in the Sales Proceeds.

[14] Other issues related to costs and accounting were dealt with in a subsequent hearing, resulting in Trial Decision #2 on October 1, 2021. That judgment dealt with an application by the Garcha Parties (and another party that has not appeared today), pursuant to s. 37 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 [BIA] to challenge the fees charged by the Trustee and the Trustee's then legal counsel. The Applicants did not join in seeking that relief.

[15] The trial judge ruled in the Garcha Parties' favour. Justice Sewell ruled that the amount of fees charged by the Trustee to the bankrupt estate, including legal fees of its then-counsel, were too high, so he required some of these fees to be repaid. He was critical of positions taken in the litigation by the Trustee and also ordered that the Trustee be liable for costs of the successful parties.

[16] Justice Sewell's decisions were upheld on the Main Appeal, after a five-day hearing, in a decision delivered on October 11, 2023.

[17] The result was that the Trustee was required to refund a large amount of fees, calculated in a subsequent judgment to be in the amount of approximately \$1.947 million. The Trustee-Fee Refund monies were placed in an interest-bearing trust account held by a law firm. The Sales Proceeds continued to be held in a different trust account by another law firm.

[18] Following the appeal, the Costs Assessment took place, with Associate Judge Muir apportioning and assessing the costs of the five proceedings after she held a five-day hearing. She delivered her decision on December 23, 2024.

[19] After costs were determined, there needed to be orders paying out to the various parties the Trust Proceeds and accounting for interest and costs in accordance with the various court orders.

[20] The Trustee prepared a Twelfth Report setting out the proposed distribution of the Trust Proceeds. The Trustee then brought applications in the related proceedings to obtain the Distribution Orders. Notice was given to the Applicants and other interested parties. The Garcha Parties, the Grewal Parties, and the Applicants are all entitled to some payment out of the Trust Proceeds.

[21] The Applicants prepared a response to application in which they took issue with some aspects of the proposed Distribution Orders.

[22] The Distribution Orders were granted by Justice G.C. Weatherill on May 15, 2025. These Orders set out in detail the exact amounts to be paid out of the Trust Proceeds to the various parties to the litigation and bankruptcy, including payment out of accrued interest from the two trust accounts.

[23] There are only a few steps left in the bankruptcy proceeding, including the step of the Trustee obtaining court approval of the final statement of receipts and disbursements.

Delayed appeal proceedings and need for extension

[24] Counsel for the Applicants, Mr. Beesley, who has stepped aside for purpose of today's application, has filed an affidavit addressing his responsibility for failing to serve the notices of appeal on time. He says, on May 22, 2025, he received instructions to proceed with the appeals from the Distribution Orders (again, which were made on May 15, 2025). He was away from the office from May 27 to June 16, 2025, and says he was unable to file the notices of appeal before his departure.

[25] Counsel filed the notices of appeal on June 16, 2025, within the 30-day filing deadline stipulated in R. 6 of the *Court of Appeal Rules*, B.C. Reg. 120/2022 [CA Rules].

[26] However, counsel for the Applicants failed to serve the requisite parties within the deadline. Counsel was under the mistaken impression that there were 10 days to serve the parties named in the notices of appeal after filing the notices and did not realize that R. 6 of the *CA Rules* requires the parties to be served within 30 days of the pronouncement of the order under appeal.

[27] Counsel for the Applicants served the notices of appeal on the respondents on June 24, 2025, by email.

[28] The same day, June 24, 2025, counsel for the Trustee wrote back to counsel for the Applicants by email. He advised that the Applicants were out of time and would need to apply for an extension of time without delay if they intended to pursue the matter. The Trustee cited the authorities of *Liebreich v. Farmers of North America*, 2022 BCCA 221 (Chambers); and *Clock Holdings Ltd. v. Braich*, 2009 BCCA 269 (Chambers) [*Clock Holdings*], to this effect. The Trustee advised that he would oppose an application for an extension of time, as an appeal would negatively impact the estates in bankruptcy.

[29] The following is the history of the ensuing correspondence by email:

- a) On June 25, 2025, counsel for the Applicants replied to the Trustee's email stating that they were preparing materials for a chambers matter extending the time to appeal and that "[o]ur materials for the extension of time will follow shortly". Counsel explained they were not seeking stays of the payments out, noting that, practically speaking, there was bound to be some delay in some of the payments out. He proposed the date of July 7, 2025, for a hearing of the application.
- b) On June 26, 2025, counsel for the Garcha Parties wrote to counsel for the Applicants indicating they would not consent to an extension of time. They

- also explained why, in their view, the proposed appeal had no merit, including that the Applicants had no standing to challenge the distribution of the Trustee-Fee Refund. Counsel stated that they could appear on July 7 in chambers if they received the application materials by 5 pm on June 27, 2025, in accordance with the *CA Rules*.
- c) There was then silence from the Applicants for the rest of June, July, and August 2025.
 - d) On September 9, 2025, Mr. Beesley, counsel for the Applicants, wrote to the respondents stating that the Applicants were “looking at resetting the application for an extension of time in October”. He advised he had retained outside counsel, Mr. Friesen, for that purpose and he would be generally available in October.
 - e) On September 10, 2025, counsel for the Garcha Parties indicated availability on October 22, 23, or 25, 2025, and asked for confirmation of those dates and for delivery of the application materials as soon as possible and at least in accordance with the *CA Rules*.
 - f) On September 11, 2025, counsel for the Trustee advised counsel for the Applicants of availability on October 24, and 27–31, 2025, for the extension application.
 - g) There was silence from the Applicants for another six weeks.
 - h) On October 27, 2025, counsel for the Trustee wrote to counsel for the Applicants. He reminded him of the earlier correspondence and the fact it had been four months, yet they still had no application materials. He asked for confirmation that the Applicants would not be attempting to proceed with the appeal, at least as against the estates in bankruptcy, noting “[g]iven the delay, this seems clear but confirmation would be appreciated”.
 - i) Counsel for the Applicants did not respond.

- j) On November 3, 2025, counsel for the Trustee wrote a follow-up email in the same chain and advised that the Trustee needed to move forward on the estates in bankruptcy and that the lack of response to earlier correspondence was considered to be implicit confirmation that the appeal would not be proceeding against the estates in bankruptcy.
- k) Counsel for the Applicants did not respond until almost a month later, and then not directly. On December 1, 2025, counsel for the Applicants on today's motion, Mr. Friesen's firm, wrote to the respondents and proposed new dates for the application during the weeks of January 19 or 26, 2026.
- l) The Applicants did not file the application for an extension of time until January 9, 2026.

[30] This brings us to the present application, which I heard on January 19, 2026.

[31] The Applicants seek an extension of time to appeal from the Distribution Orders. As an overview, they seek to alter some of the calculated payments and distributions, reducing the payment to the Garcha Parties and to the bankrupt estates in favour of increased payments to them.

[32] In the meantime, before the present application was brought, the Distribution Orders were carried out, and the Trust Proceeds have now been distributed. This was done on notice to the Applicants. The Applicants were recipients of some of the funds and received approximately \$1.131 million between them.

Legal framework

[33] The Applicants accept that the appeal is not commenced until both a notice of appeal is filed and served: *CA Rules* R. 6(1)(a) and (b). Therefore, if they wish to proceed with the appeal, they must obtain an order extending the time for service, which a justice in chambers has authority to grant pursuant to s. 32 of the *Court of Appeal Act*, S.B.C. 2021, c. 6.

[34] The case of *Davies v. C.I.B.C.* (1987), 15 B.C.L.R. (2d) 256 at 259–260, 1987 CanLII 2608 (C.A.), set out the criteria relevant to an application to extend time to begin an appeal:

- 1) Was there a *bona fide* intention to appeal?
- 2) When were the respondents informed of the intention?
- 3) Would the respondents be unduly prejudiced by an extension of time?
- 4) Is there merit in the appeal?
- 5) Is it in the interest of justice that an extension be granted?

[35] The interests of justice is the overriding factor that encompasses the first four questions: *Davies* at 260–261.

[36] There is a greater willingness to extend the time for service than to extend the time for filing the notice of appeal: *Davies* at 259.

[37] The burden is on the applicant to establish that the criteria are met: *Rapton v. British Columbia (Motor Vehicles)*, 2011 BCCA 71 at para. 19 (Chambers).

[38] There is considerable jurisprudence dealing with the situation where a mistake by legal counsel caused a delay in filing or serving an appeal and led to the requirement for an extension of time.

[39] Delay caused by a mistake by counsel combined with a demonstrable intention to pursue the appeal may be sufficient to find that it is in the interests of justice to extend time, particularly if prompt steps are taken to remedy the error. However, the applicant may not be able to rely on counsel’s mistake where the delay is inordinate and inexcusable, and there is a failure to act quickly to take steps to obtain the extension of time: *Clock Holdings; McKersie v. Macala*, 2022 BCCA 277 (Chambers); *Woo v. ONNI Ioco Road Five Development Limited Partnership*, 2012 BCCA 412 at para. 28 (Chambers); *Li v. Chao Yin Canada Group Inc.*, 2023

BCCA 39 at para. 11 (Chambers); *Rowan v. Dunwoody*, 1999 BCCA 755 at para. 21 (Chambers); *Fred Walls & Son Holdings Ltd. (Re)*, 2003 BCCA 132 at para. 20 (Chambers).

Analysis

Is there merit in the appeal?

[40] I am going to approach my analysis of the *Davies* factors starting with the merits of the appeal from the Distribution Orders.

[41] The Applicants did not file any argument in advance of today's hearing. However, at the commencement of the hearing, they handed up a written submission which advanced three alleged errors: (1) double counting of developer deposits; (2) misallocation of the Trustee-Fee Refund; and (3) double recovery of interest payable to the Garcha Parties. They have not provided any estimate of the amount by which the distributions to the Applicants would be increased should they prevail on appeal, although they provide some figures as to the scale of some of the issues globally.

[42] I am concerned by the approach of the Applicants in not distributing their argument in advance, so as to allow the respondents an opportunity to review their grounds of appeal and respond.

[43] The respondents objected to the late written argument by the Applicants. The respondents had provided their written materials in advance of the hearing. I accepted the Applicants' written argument but did so with the late notice in mind.

[44] Further, the Applicants have not obtained a transcription of the oral reasons given by G.C. Weatherill J. in making the Distribution Orders.

[45] The Applicants clearly had time to obtain the transcribed oral reasons and draft their argument well prior to today's hearing, given the more than six months that have elapsed. Given the fact they have received over \$1.1 million as a result of

the Distribution Orders, one cannot assume that the expense of ordering the reasons was a barrier to obtaining them.

[46] Despite the lack of advance notice, during the hearing before me the respondents raised credible arguments casting serious doubt on the merits of the issues raised by the Applicants. They suggest that some of these issues are simply not capable arguments because they are directly contrary to terms of earlier orders made by Sewell J. and other court orders. As an example, the respondents suggest that the Applicants have no standing to challenge the distribution of the Trustee-Fee Refund and interest earned on those monies when held in trust, as that refund was directed by Sewell J. solely to the Garcha Parties and certain other 2007 Joint Venture parties, not to the Applicants.

[47] Without a record of the judge's reasons for granting the Distribution Orders, it is next to impossible to assess the merits of the proposed appeal. The onus is on the Applicants to demonstrate the merits. It would not be surprising if there was room to argue a meritorious appeal in a case as complex as this one. That does not mean that an Applicant in a complex case should take the merits factor for granted.

Was there a *bona fide* intention to appeal?

[48] The Applicants suggest that today's application is going to turn on the other *Davies* factors. They say they have demonstrated a *bona fide* intention to appeal. They say there was not a significant delay between starting the appeal and serving the notices of appeal.

[49] The respondents say the Applicants have not demonstrated a continuing *bona fide* intention to appeal because they took too long to bring the present application for an extension of time to serve. They also point out that the Applicants have taken no steps to advance the appeal in the meantime while waiting for the hearing of this application, including obtaining the judge's reasons and preparing a draft appeal record and factum and distributing it. In the meantime, due to the Applicants' delay, the time periods for filing these necessary materials have been missed, and these materials are months past due.

[50] The Garcha Parties also take the position that not only were the notices of appeal not served on time, they were not filed on time. They say the appeals are subject to the *BIA*. The Trustee's applications relied on ss. 34 and 183 of the *BIA* and the inherent jurisdiction of the Court arising in connection with bankruptcy proceedings.

[51] The Garcha Parties submit that R. 31(1) of the *Bankruptcy and Insolvency General Rules, C.R.C., c. 368 [BIA Rules]*, limits the time to appeal to this Court to 10 days after the order under appeal is pronounced, and the Applicants did not meet this deadline.

[52] I have difficulty resolving that issue on the limited record before me. But the outcome of today's application will not change, regardless of whether the appeal should have been brought within 10 days or 30 days. I would not weigh against them the fact it took the Applicants 30 days to file the notices of appeal.

[53] I also recognize that, due to his own mistake in failing to serve the notices of appeal on time, then-counsel for the Applicants needed to retain new counsel for this application, and new counsel might have needed a bit of time to prepare. However, the Applicants were aware, in June 2025, that the notices of appeal did not comply with the deadlines, and they did not file their extension application until January 9, 2026. They also did not respond to emails from the Trustee seeking confirmation of whether they intended to continue the appeal, in the face of the Trustee's position that delay would be prejudicial.

[54] As early as June 24, 2025, the Trustee brought to the Applicants' attention case law such as *Clock Holdings* that emphasizes the risk they were facing if they did not move quickly. In *Clock Holdings*, the applicant did not bring an application for an extension of time until three months after learning of their service error, and the Court did not allow the application. The decision was upheld by a division of the Court on review: *Clock Holdings Ltd. v. Braich*, 2009 BCCA 437.

[55] Despite clear notice that delay would be held against them, the Applicants continued to let the matter languish. That conduct weighs against the Applicants.

[56] I agree with the respondents that the Applicants' inordinate delay in bringing this extension application demonstrates a lack of continuing intention to advance the appeal.

Would the respondents be unduly prejudiced by an extension of time?

[57] The Applicants submit there would be no prejudice caused by the extension of time because they do not seek a stay of the Distribution Orders, which have already been effected. In my view, that is a neutral factor. I observe it is hardly going to be non-prejudicial to attempt to rewind those distributions if adjustments are required after appeal.

[58] In my view, granting the extension of time would cause undue prejudice to the respondents beyond just the ordinary prejudice of having to defend an appeal. The prejudice is the additional delay in the overall proceedings that would be caused by another appeal at this late juncture, including attendant delay in wrapping up the bankrupts' estates. In this case, more than most, time is money, and delay simply adds to the costs burden.

[59] The underlying litigation began more than a decade ago. The remaining stages of this hard-fought litigation must be managed in the most efficient way possible, with as few delays as possible. The delay and costs of this litigation are already beyond excessive.

Is it in the interest of justice that an extension be granted?

[60] For the reasons I have already given, considering all of the factors specific to this case as a whole and considering the administration of justice generally, I have concluded it is not in the interests of justice to grant the extension.

[61] When I refer to the administration of justice, I am referring to the broader harm to the judicial system if the rules are not enforced in most circumstances. The rules exist to create procedural fairness and certainty for all parties.

[62] Once the Applicants learned of their error, there was an inordinate delay in bringing this application to attempt to correct it. In the meantime, important deadlines that must usually be met in the prosecution of an appeal have passed by. The Applicants have simply let the matter “drift along” for too long, to borrow a phrase from the case of *Hansen (Trustee of) v. Hansen* (1988), 71 C.B.R. (N.S.) 79 at 81, 1988 CanLII 3401 (B.C.C.A.).

Disposition

[63] I dismiss the application for an extension of time to serve the notices of appeal.

[Discussion re: costs]

[64] **GRIFFIN J.A.:** After discussion between the parties, I order the Applicants to pay lump sum costs of this application in the amount of \$1,230 to each group of represented respondents on this application.

“The Honourable Justice Griffin”