



to an interest in a property that his funds were used to purchase. In the alternative, he claims that he is owed the money that he transferred. The Defendants deny any money is owed and in fact made a counterclaim for monies they claim are owed by the Plaintiff. The Defendants maintain that the monies paid by the Plaintiff were in fact a repayment for monies loaned to the Plaintiff in previous years.

[2] The key individuals in this action are as follows:

- a) The Plaintiff Aziz Ur-Rahman Gohir (“Aziz”);
- b) The Plaintiff’s brother, Hafeez Ur Rehman Goheer (“Hafeez”);
- c) The Plaintiff’s other brother, Saeed Ur Rehman Goheer (“Saeed”);
- d) The Defendant Muhammad Tasneem Ul Hassan Nawaz (“Muhammad”);
- e) Muhammad’s father, the Defendant Ahmed Nawaz (“Ahmed”);
- f) Ahmed’s brother, and Muhammad’s uncle, Riaz Ahmad (“Riaz”); and
- g) Ahmed’s sister-in-law, and Muhammad’s aunt, Asia Parveen (“Asia”).

[3] Given that many of the people referred to herein have the same last name, and with no disrespect intended, all parties will be referred to by their first name.

[4] This matter was tried by way of a summary trial. The parties swore affidavits which served as their evidence-in-chief, and each of the parties were subject to cross-examination.

## I. Issues

[5] The following issues are to be determined:

- a) How much money was advanced by Aziz to, or on behalf, of Ahmed, or his son Muhammad?
- b) How much money was advanced by Ahmed to Aziz?
- c) What is the nature of these advances?
- d) Do the monies advanced by Aziz, grant him a proprietary interest in the properties purchased by Muhammad?

## II. Analysis

### A. **How Much Money was Transferred from Aziz?**

[6] I will categorize the exchange of money between the parties into three distinct areas: miscellaneous transfers, monies used to purchase a property on Blue Jays Way, and monies used towards the purchase of a property on Monarch

Drive. Where there is proof of monies being transferred, the parties do not dispute that the transfer was made. In most cases though, they dispute the purpose of that transfer.

### ***Miscellaneous Transfers***

[7] As early as 2015, the parties appear to be transferring money between themselves or their family members. Sometimes, Aziz would transfer money to Ahmed here in Canada. On other occasions, monies were transferred on behalf of Aziz by his brothers Hafeez and Saeed, and were transferred to Ahmed's brother Riaz and Riaz's wife Asia, on Ahmed's behalf. When transfers were made between the family members, it was transferred in Pakistan, and the transfers were in Pakistani Rupees.

[8] The reason that funds were transferred between Aziz and Ahmed, in other currencies and in other countries, is not important for the purposes of this motion. It is sufficient to say that they dispute the reason it was done in this manner.

[9] I received no affidavit evidence from either Hafeez, Saeed, Riaz or Asia. Despite this, Aziz states that any monies paid by Hafeez and Saeed were actually his monies. The Defendants do not dispute this. At trial, Ahmed admitted that

while money may have been transferred to his brother and sister-in-law, or any company controlled by Ahmed or his family, he eventually received these monies.

[10] With this background, the evidence shows the following transfers:

- a) On December 17, 2015, the sum of 27,48,550 Pakistani Rupees (\$36,686.46 CAD) was transferred by Aziz through Hafeez and Saeed, to Ahmed, through Riaz and Asia;
- b) On January 6, 2016, Aziz, through Hafeez and Saeed, paid the sum of 19,89,650 Pakistani Rupees (\$25,745.99 CAD) to Spectrum International, which is a company owed by Riaz;
- c) On March 9, 2016, Aziz, through Hafeez and Saeed, paid the sum of 25,00,000 Pakistani Rupees (\$29,997.60 CAD) to Ahmed, through Riaz and Asia; and
- d) On July 29, 2016, Aziz, through Hafeez and Saeed, transferred 80,12,370 Pakistani Rupees (\$100,292.53 CAD) to Ahmed, through the account of Riaz and Asia.

[11] With respect to the exchange rate, neither party provided the court with any evidence of an appropriate exchange rate. Aziz provided a print-out from

investing.com, but the reliability of this site is not known. As stated in *Schultz v. Lassiter*, 2022 ONSC 292, at para. 26:

When exchange rates are in issue, the parties either need to agree on the applicable exchange rate or provide admissible evidence to determine the issue. Such evidence needs to be more than simply a print-out from a financial institution's website. The source of the information needs to be reliable. Exchange rates may vary between commercial financial institutions, including whether the rate is for purchasing or selling the requested currency.

[12] The *Courts of Justice Act*, R.S.O. 1990, c. C.43, states at s. 121(1), that in a proceeding to enforce an obligation in a foreign currency, I am to order payment of an amount in Canadian currency sufficient to purchase the amount of the obligation in the foreign currency at a *Bank Act* Schedule I bank at the close of the previous day. In this case, I have no such evidence.

[13] In similar circumstances, my colleagues on the bench have resorted to the Bank of Canada rate (see for example, *V.K.G. v I.G.*, 2023 ONSC 6329, at para. 250, *Bennett v Bonatsos*, 2014 ONSC 1048, at paras. 21-23). Accordingly, in order to convert the funds that were exchanged between the various parties, I have attempted to use the Bank of Canada rate to determine how much Canadian currency was required to purchase Pakistani Rupees on the day before the transfer. Unfortunately, the Bank of Canada does not publish rates of exchange

for Pakistani Rupees on the date at issue. I also attempted to locate the exchange rate between Canadian dollars and Pakistani Rupees in 2015 and 2016 from a number of *Bank Act* Schedule I Canadian banks but was unable to locate anything.

[14] Accordingly, I will use the exchange rates provided by Aziz. The Defendants disputed those rates but provided no other rates for the court's consideration. The exchange rates from investing.com was the best evidence available to the court. The Canadian dollar equivalent of the transfers in Pakistani Rupees are set out in Schedule "A" to these reasons.

[15] In addition to the amounts transferred in Pakistan, Aziz also transferred money to Ahmed in Canada, in Canadian dollars, as follows:

- a) on February 17, 2016, Aziz paid \$4,500 to NCO Financial Services Inc., which he states was a creditor of Ahmed, for Ahmed's benefit;
- b) on August 14, 2016, Aziz paid \$2,000 to Ahmed's business account AVRO;
- c) On February 15, 2017, Aziz paid \$2,712 to Ahmed's commercial landlord JST Investment Inc., for Ahmed's benefit;

- d) On April 4, 2017, at Ahmed's request, Aziz paid the sum of \$6,000 to Shanti Devanand in trust, Ahmed's lawyer, for payment of fees in unrelated litigation.

[16] Accordingly, between December 17, 2015, and April 4, 2017, a total of \$207,934.58 was paid by Aziz to Ahmed, or for Ahmed's benefit.

[17] It is also agreed that on June 13, 2016, in the middle of these transfers, Ahmed paid Aziz the sum of \$150,000. On the date that transfer was made, based on the evidence presented, Ahmed would have paid \$53,069.95 more than what was owed by him. That credit position was short lived. Within two months, Aziz started transferring money again to Ahmed, which eventually totalled \$111,004.53. As of the date of this trial, Aziz had transferred \$57,934.58 more to Ahmed, than was transferred to him.

### ***Blue Jays Property***

[18] On October 29, 2012, Muhammad entered into an agreement to purchase a pre-construction condominium located at 56 Blue Jays Way, Suite 1603, Toronto ("Blue Jays Property") for the sum of \$573,900. He paid a deposit of \$5,000 at that time. A statement of adjustments produced by Muhammad shows that he paid

a further deposit of \$23,695.00 on November 28, 2012, and paid a further deposit of \$28,695 on February 26, 2013.

[19] Several years later, as the occupancy of the Blue Jays Property approached, Aziz started transferring money to Muhammad, or on his behalf. It is clear on the evidence that the following payments were made:

- a) On January 13, 2017, Aziz transferred the sum of \$2,000 directly into Muhammad's bank account;
- b) On January 17, 2017, Aziz transferred the sum of \$3,000 directly into Muhammad's bank account;
- c) On April 4, 2017, Aziz delivered to Shanthi Devanand, a draft in the sum of \$10,000 payable to Shanthi Devanand in Trust, who was Muhammad's real estate lawyer for the purchase of the Blue Jays Property; the draft referenced "1603-56 Blue Jays Way";
- d) Also on April 4, 2017, he delivered to Shanthi Devanand, a further draft in the sum of \$21,965.45 payable to Shanthi Devanand in Trust, which also referenced "1603-56 Blue Jays Way";
- e) On July 13, 2017, Aziz delivered to Lifetime 56 Blue Jays Way Inc., the builder of the Blue Jays Property, a draft in the sum of \$2,136.62 which

referenced Muhammad; Aziz states that this was on account of Muhammad's default on his monthly occupancy payments for his interim occupancy;

- f) Also on July 13, 2017, Aziz paid a further \$282.50 to Lifetime 56 Blue Jays Way Inc., referencing Muhammad, which Aziz said was to cover non-sufficient fund charges arising from prior payments of occupancy fees;
- g) Aziz transferred the sum of \$58,000 directly to Muhammad's bank account on August 28, 2017; and
- h) On the closing of the purchase of the Blue Jays Property on August 29, 2017, Aziz delivered to Shanthi Devanand, a draft in the sum of \$47,257.35 payable to Shanthi Devanand in Trust, referencing "Deposit for 88 Blue Jays Way #1603".

[20] It is clear that any transfers made to Shanthi Devanand or to Lifetime 56 Blue Jays Way Inc. were made on behalf of Muhammad. Accordingly, in total, Aziz transferred to Muhammad, the builder, or to Muhammad's real estate lawyer for the purchase of the Blue Jays Property, the total sum of \$144,641.92.

### **Monarch Drive Property**

[21] In or around February 27, 2017, Muhammad entered into a purchase agreement with Remington Georgetown Inc. for the purchase of a pre-construction home identified as Lot 23, and to be built on Monarch Drive in Georgetown (“Monarch Property”). The agreement provided for deposits in the sum of \$20,000 on each of March 27, 2017, June 27, 2017, and August 27, 2017. The balance of \$1,101,990 was due on the date of closing, which was estimated to be April 12, 2018.

[22] The evidence shows that Aziz transferred the following sums:

- a) On February 27, 2017, he wrote a cheque to Remington Georgetown Inc. referencing “Lot 23A, 1<sup>st</sup> deposit” in the sum of \$20,000;
- b) On March 27, 2017, he charged the sum of \$20,000 on his Visa, to Calsper Development, which references Lot 23A, 2<sup>nd</sup> deposit; Aziz shows a charge on his VISA statement on April 7, 2017 to Remington Homes for this amount; Muhammad does not dispute that these monies were paid to Calsper on behalf of Remington Homes; and
- c) On September 5, 2017, he transferred \$20,000 to Muhammad.

[23] The purchase of the Monarch Property closed on June 6, 2019. Title was taken by Muhammad alone. To close the transaction, Muhammad obtained a mortgage in the sum of \$954,722 from Sinclair-Cockburn Mortgage Investment Corporation. The reporting letter from Muhammad's real estate lawyer also shows that on closing, Muhammad provided a further \$174,701.84 from a mortgage on another property, and an additional sum of \$66,457.80.

[24] It is clear that all these transfers, whether to Remington Georgetown Inc., or to Calsper Development, were made for the benefit of Muhammad. Accordingly, in total Aziz transferred to Muhammad the sum of \$60,000 towards the Monarch Property.

***Total Amount***

[25] It is clear that between December 17, 2015 and August 29, 2017, Aziz transferred the sum of \$207,934.58 to Ahmed, for which he only received \$150,000 in return.

[26] Also, between February 27, 2017, and September 5, 2017, Aziz transferred to Muhammad, or on behalf of him, the sum of \$204,641.92.

**B. How Much Money was Transferred from Mohammad or Ahmed?**

[27] Ahmed alone, has counterclaimed against Aziz, claiming that Aziz owes him \$77,146.54. In particular, he has alleged that \$325,000 was loaned to Aziz, as follows:

- a) In 2015, the sum of \$8,000 and \$37,000;
- b) In 2016, the sum of \$70,000, \$25,000 and \$70,000; and
- c) In 2017, the sum of \$70,000, \$20,000 and \$25,000.

[28] Ahmed claims that all these loans were made in cash. He alleges that when Aziz paid him the sum of \$150,000 on June 13, 2016, it was a repayment of these amounts. As of the date of the trial, he claims that \$77,146.54 remains outstanding.

[29] Unfortunately, other than the payment of \$150,000, Ahmed has provided no documentary evidence of these advances to Aziz. It is an oddly specific amount, which makes the lack of documentation confusing. At trial, during his cross-examination, Ahmed said that he and his wife keep records but concedes that he has not produced them. He maintains it was a personal matter.

[30] It is Ahmed's obligation to prove the claim that he has advanced in his counterclaim. Unfortunately, by failing to produce any records, including those records he claims he has, I cannot find that he has met his onus.

[31] Accordingly, I find that no money has been loaned to Aziz, that requires repayment.

**C. What is the Nature of these Advances?**

[32] Both parties claim that the monies exchanged between the parties are loans. There has never been an allegation that the funds were gifts. Also, based on the admissions of the parties, I accept that monies advanced by Hafeez and Saeed are on behalf of Aziz, and the monies received by Riaz and Asia were received on behalf of Ahmed or Muhammad. I also accept that monies paid to Spectrum International, NCO Financial Services Inc., AVRO, or JST Investments Inc. were advanced by or on behalf of Aziz, to Ahmed. Further, funds advanced to Aziz to Remington Georgetown Inc., Calsper Development, Shanthi Devanand, or Lifetime 56 Blue Jays Ways were received on behalf of Muhammad.

[33] With respect to the advances to Muhammad, there has been no repayment of these funds. Again, it has never been alleged that these monies were a gift. They were a loan. It was intended that they be repaid.

[34] A more detailed calculation of the amounts loaned are detailed at Schedule "A" to these reasons.

[35] Aziz has asked that I find that these debts are joint debts and that these sums be owed by both the Defendants. He claims that they both agreed to repay any amounts outstanding. This is difficult in that Ahmed received some monies and Muhammad received other monies. There is no evidence that Ahmed benefited from the money advanced to Muhammad or that Muhammad benefited from the advances to Ahmed. In essence, Aziz asks that I find that each party guaranteed the other's debt and that I should find any judgment against them both.

[36] Unfortunately, the evidence does not support a joint debt. The monies were advanced to either of the Defendants – not to them jointly. The money sent to Ahmed, went to him, his corporations or his creditors. The money sent to Muhammad went towards properties in his name alone. There are communications between Muhammad and Aziz and other communications between Aziz and Ahmed. At no time do these communications imply that they specifically guarantee the debt of the other. Accordingly, the party to whom the money was advanced, will be the debtor.

**D. Do Aziz's Transfer of Money Grant him Proprietary Rights?**

[37] Aziz claims no proprietary rights with respect to the miscellaneous payments. He claims an interest only in the Blue Jays Property and the Monarch

Property. In particular, he claims a constructive trust in relation to those properties and seeks an order vesting title of these two properties in his name.

[38] Despite what is pleaded, in his factum, Aziz argues that he is entitled to a proprietary interest through a resulting trust. The law of constructive trust was not addressed in his factum.

[39] I pause first by mentioning that a constructive trust is a remedy. It remedies an unjust enrichment of another party. In order to be successful, Aziz would have to prove that Muhammad was unjustly enriched by the money advanced by Aziz, that Aziz had corresponding deprivation, and that there was no juristic reason for it: *Kerr v. Baranow*, 2011 SCC 10, [2011] 1 S.C.R. 269, at paras. 36 to 45.

[40] If such an unjust enrichment is found, then I must first consider a monetary remedy: *Martin v. Sansome*, 2014 ONCA 14, 118 O.R. (3d) 522 (C.A.), at para. 48. Only if a monetary remedy would not be appropriate, would Aziz be entitled to a constructive trust over the two properties, to remedy this situation: *Kerr*, at paras. 47 to 53.

[41] A constructive trust would not be an appropriate remedy here, because there is no unjust enrichment. The juristic reason for the advance of money was that it was a loan, with an expectation of repayment. As indicated above, none of

the parties ever alleged that these monies were a gift. The communications between the parties show this.

[42] A resulting trust arises when title to a property is in one party's name but that party, because he or she is a fiduciary or gave *no value* for the property, is under an obligation to return it to the original title owner: *Pecore v. Pecore*, 2007 SCC 17, [2007] 1 S.C.R. 795, at para. 20. The actual intention of the grantor is the governing consideration: *Pecore*, at paras. 43-44; *Kerr*, at para. 18.

[43] On the facts before me, Aziz has not satisfied me that beneficial ownership in either the Blue Jays Property or the Monarch Property should result back to him.

[44] First, while Aziz advanced significant funds to Muhammad, some of those funds have no direct association to the Blue Jays Property. The two payments in January 2017 do not coincide with any deposits required by the builder, which were due in 2012 and 2013. The remaining payments are directly tied to the Blue Jays Property, but are only a portion of what Muhammad paid.

[45] To close the transaction, Muhammad was obliged to pay approximately \$520,000. This was the amount required because Muhammad had already paid approximately \$63,000 in deposits in the previous years. Of this amount required in 2017, \$430,000 of that was secured by way of a mortgage, for which Aziz had

no liability. Aziz was not a guarantor, nor did he ever make a mortgage payment. Aziz did cover the remaining \$100,000 required to close.

[46] While Aziz did cover one month of occupancy fees, Muhammad covered months of others.

[47] Also, on the facts before me, I do not find that Aziz intended that he have a propriety interest in Blue Jays Property or the Monarch Property when he advanced the monies. In particular, in his trial affidavit, Aziz states:

On April 16, 2019, Muhmmad Nawaz has refinanced Blue Jays Ways home in the amount of \$185,351.00 from lender Alexander ADAMS on the promise by the defendants that they will pay me, my payments made by me towards closing of Blue Jays Way Home and below mentioned payments made by me in respect of Remington home purchased by Muhammad Nawaz as well, but these defendants did not pay at all any money to me from this refinancing and there having lost my hopes of receiving these monies from them I then he filed my civil action against these defendants... .

[48] Aziz clearly states that he was expecting payment. Which shows that he considered the money he advanced to be a loan. He has shown multiple text exchanges between the parties where he is seeking payment of what he had previously advanced. Nothing more. If he intended to have a proprietary interest in these properties, demanding repayment of the money he provided would not

have been necessary – his money would have been secure in the equity of the home.

[49] I also note that Aziz is a real estate professional. He should understand that the advance of monies to a friend to help them purchase a property does not automatically result in an ownership interest. He was not the sole contributor to the properties. He could have demanded a mortgage. He could have demanded a written agreement. He could have confirmed this understanding in writing in some way. It was not until Muhammad refinanced the Blue Jays Property and did not repay Aziz, that Aziz started asserting a proprietary interest. Until then, he treated the transfers of money as a loan which had to be repaid. His actions do not support an ownership interest.

[50] As for the Monarch Property, there is even less evidence that Aziz expected a proprietary interest in it. This home was purchased in Muhammad's name only. While it appears that Aziz paid 3 of the 4 deposits that were required, Muhammad was required to pay approximately \$1,151,000.00 on closing, to which Aziz did not contribute.

[51] Given that Aziz has no proprietary interest in these properties, he is not entitled to a vesting order.

**A. Conclusion**

[52] For the foregoing reasons, I made the following orders:

- a) The name of the Defendant Ahmed Nawaz, shall be amended to be “Ahmad Nawaz, otherwise known as Ahmed Nawaz”;
- b) Ahmad Nawaz owes to Aziz the sum of \$57,934.58;
- c) Muhammad owes to Aziz the sum of \$204,641.92;
- d) Pre-judgment interests shall be paid in accordance with the *Courts of Justice Act*, and
- e) The parties are encouraged to resolve the issue of costs themselves; if they are not able, on or before February 27, 2026, Aziz is to serve and file his Bill of Costs, and his written costs submissions, limited to 2 pages, along with any offers to settle that were served; on or before March 13, 2026, the Defendants shall serve and file their Bill of Costs, and their written costs submissions, limited to 2 pages, along with any offers to settle that were served; if the Plaintiff wishes, on or before

March 20, 2026 he may serve and file his reply written submissions, limited to 1 page;

- f) The remainder of the claims, including the claim of a proprietary interest in various properties, and the counterclaim, are dismissed;

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Fowler Byrne J.

**Released:** February 12, 2026

**SCHEDULE  
A**

<b>Date</b>	<b>Amount CDN</b>	<b>Payor</b>	<b>Recipient</b>	<b>Notes</b>
17-Dec-15	\$36,686.46	Aziz	Ahmed	27 48 550 Rupees (74.92 Rup per Cdn \$1)
06-Jan-16	\$25,745.99	Aziz	Ahmed	19 89 650 Rupees (77.28 Rup per Cdn \$1)
17-Feb-16	\$4,500.00	Aziz	Ahmed	
09-Mar-16	\$29,997.60	Aziz	Ahmed	25 00 000 Rupees (83.34 Rup per Cdn \$1)
13-Jun-16	-\$150,000.00	Ahmed	Aziz	
29-Jul-16	\$100,292.53	Aziz	Ahmed	80 12 370 Rupees (79.89 Rup per Cdn \$1)
14-Aug-16	\$2,000.00	Aziz	Ahmed	
15-Feb-17	\$2,712.00	Aziz	Ahmed	
04-Apr-17	\$6,000.00	Aziz	Ahmed	

**\$57,934.58 owed by Ahmed to Aziz**

<b>Date</b>	<b>Amount CDN</b>	<b>Payor</b>	<b>Recipient</b>
13-Jan-17	\$2,000.00	Aziz	Muhammad
17-Jan-17	\$3,000.00	Aziz	Muhammad
27-Feb-17	\$20,000.00	Aziz	Muhammad
27-Mar-17	\$20,000.00	Aziz	Muhammad
04-Apr-17	\$10,000.00	Aziz	Muhammad
04-Apr-17	\$21,965.45	Aziz	Muhammad
13-Jul-17	\$2,136.62	Aziz	Muhammad
13-Jul-17	\$282.50	Aziz	Muhammad
28-Aug-17	\$58,000.00	Aziz	Muhammad
29-Aug-17	\$47,257.35	Aziz	Muhammad
05-Sep-17	\$20,000.00	Aziz	Muhammad

**\$204,641.92 owed by Muhammad to Aziz**

**CITATION:** GOHIR v. NAWAZ et al., 2026 ONSC 894  
**COURT FILE NO.:** CV-19-00002859-0000  
**DATE:** 2026 02 12

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

AZIZ UR-RAHMAN GOHIR

Plaintiff

**- and -**

MUHAMMAD TASNEEM  
UL HASSAN NAWAZ and AHMED  
NAWAZ

Defendants

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**REASONS FOR JUDGMENT**

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Fowler Byrne J.

**Released:** February 12, 2026