

In the Court of Appeal of Alberta

Citation: Kong v Condominium Corporation No 0313339, 2026 ABCA 134

Date: 20260424
Docket: 2601-0039AC
Registry: Calgary

Between:

Zhao Xia Kong

Applicant

- and -

Condominium Corporation No. 0313339

Respondent

**Reasons for Decision of
The Honourable Justice Michelle Crighton**

Application for Permission to Appeal

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The Honourable Justice Michelle Crighton**

[1] On March 13, 2026, I dismissed the applicant’s application for a stay of proceedings pending an appeal of the Order granted on February 5, 2026, striking an appeal of a Redemption Order granted June 24, 2024.

[2] I was not satisfied the applicant met the test for a stay and dismissed the application.

[3] The applicant now seeks permission to appeal my decision to a panel in this Court: Rule 14.5(2).

[4] Such applications are rarely granted and only if there is a compelling reason to require the parties to reargue and three judges of this Court to decide the issues. Whether that is the case requires me to consider if the proposed appeal raises a serious issue and whether there are good reasons why a full panel of the Court should review the Order under appeal: *Bains v Adams*, 2024 ABCA 374 at para 6.

[5] As stated by this Court in *Habib v Habib*, 2025 ABCA 243 at paras 4-5, to determine whether an appeal should be granted in the interests of justice, the Court considers whether the decision sought to be appealed:

- (a) raises a question of general importance which on its own deserves panel review;
- (b) rests on a reviewable and material issue of law worthy of panel review;
- (c) involves an unreasonable exercise of discretion which had a meaningful effect on the outcome of the decision and the outcome is worthy of panel review; or
- (d) rests on a palpable and overriding error of important facts affecting the order made and the order is worthy of panel review.

[6] The applicant must meet at least one of these criteria. I am satisfied the applicant has not done so.

[7] I accept this issue is of significant importance to the applicant, but it is not of any general importance to the condominium community or to the development of the law in that area.

[8] The decision rests on an application of settled law to the factual record that was before me and engages no reviewable and material question of law. The issues have become increasingly complex only because the applicant has made them complex.

[9] The applicant submits that I exercised my discretion unreasonably because I did not allow her a reasonable opportunity to obtain and file the certified transcript. While I noted the difficulties

associated with the absence of the transcript upon which to assess the relative merits of her proposed appeal, I did not require the transcript to make the decision I made. I dismissed the stay application because the applicant had not shown irreparable harm.

[10] The applicant submits further that I prevented her from filing evidence relative to irreparable harm and then denied her application on those grounds.

[11] The applicant submitted her materials after the deadline for doing so, and the record available did not support her arguments she would suffer irreparable harm. The applicant requested the hearing date and dissented urgency. The evidence she filed after the filing deadline was available to her at the time of filing her application and should have been filed in a timely fashion. Nevertheless, that evidence is now before me and it does not change my view that irreparable harm has not been shown.

[12] This dispute began over a relatively small amount of money. That amount has grown exponentially largely because of the applicant's numerous, unsuccessful, court applications resulting in a significant quantum of unpaid costs. Writs of Enforcement followed the nonpayment.

[13] The applicant argues that I misapprehended her evidence, but read in context, these arguments amount to nothing more than a disagreement with my assessment of the available evidence.

[14] The applicant has not satisfied me there is any reason why a full panel of this Court should review the exercise of my judicial discretion to dismiss her stay pending appeal and the application for leave to appeal my decision to a panel is therefore dismissed.

[15] While not directly related to the reasons for dismissing the application for a stay or this application for permission to appeal my decision to a full panel, it is appropriate that I address the applicant's repeated argument the respondents agreed to a stay from which they subsequently resiled.

[16] The record, including the applicant's own evidence, refutes this assertion. The respondent had advised the Court that they were instructed **NOT** to proceed with further steps in the foreclosure action "at this time". The respondent further advised that it would be agreeable to an interim stay and that "should their position change, that a hearing be scheduled at that time".

[17] The Deputy Registrar confirmed the duty judge's directions to counsel for the respondent to prepare an order to that effect. The respondent complied with this direction by proposing a consent order pending determination of the appeal, but until that time, preserving its right to give the applicant forty-five days written notice of the respondent's intention to begin active enforcement thereby lifting the stay, and allowing the applicant to proceed with her stay application at that time.

[18] Had the applicant accepted the consent order, enforcement would have been stayed, the appeal would have proceeded and even if for some reason the respondent considered it necessary later to take enforcement steps, the applicant would have been given forty-five days written notice to bring her stay application before those further steps would be taken.

[19] The applicant chose not to accept the consent order and proceeded with her stay application instead.

[20] Rule 9.4(2)(c) is invoked, and the Court will prepare the resulting order or judgment.

Written submissions filed on April 2, 2026, April 10, 2026, and April 16, 2026

Reasons filed at Calgary, Alberta
this 24th day of April, 2026

Crighton J.A.

Appearances:

Applicant Z. Kong

J. Gilbert

E. Berney

for the Respondent