

**CITATION:** EMPIRICAL CAPITAL CORP. v. TRULIFE DEVELOPMENTS INC. et al  
**COURT FILE NO.:** CV-25-00742238-0000  
**DATE:** 20260327

**SUPERIOR COURT OF JUSTICE - ONTARIO**

**RE:** EMPIRICAL CAPITAL CORP. Plaintiff

**AND:**

TRULIFE DEVELOPMENTS INC.; LANDEAL GROUP INC.; DUC-VI CHAU, AKA DUV-VI DAVID CHAU, AKA DAVID CHAU; and JING TANG Defendants

**BEFORE:** Parghi J.

**COUNSEL:** *Harrison Neill-Morabito*, for the Plaintiff

No one appearing for the Defendants

**HEARD:** March 27, 2026

**ENDORSEMENT**

[1] The plaintiff brings a summary judgment motion in a guarantee claim.

[2] On a motion for summary judgment, I must first determine, based only on the record before me, whether there is a genuine issue requiring a trial. If there appears to be a genuine issue requiring a trial, I am to determine if the need for a trial could be avoided by using my enhanced powers under either rule 20.04(2.1) or 20.04(2.2) of the *Rules of Civil Procedure*. Rule 20.04(2.1) empowers me to weigh evidence, evaluate a deponent's credibility, and draw reasonable inferences from the evidence. The power set out in rule 20.04(2.2) allows me to order that oral evidence be presented by one or more parties. I may use these powers at my discretion, as long as their use is not contrary to the interests of justice – that is, as long as they will lead to a fair and just result and will serve the goals of timeliness, affordability, and proportionality in light of the litigation as a whole (*Hryniak v. Mauldin*, 2014 SCC 7, [2014] 1 S.C.R. 87, at para. 66).

[3] The responding party must set out, by affidavit or other evidence, specific facts that show there is a genuine issue requiring a trial (r. 20.02(2)). I am entitled to presume that the parties have put forth their best evidence on the motion and that if the case were to

proceed to trial, no additional evidence would be presented (*TD Waterhouse Canada Inc. (TD Waterhouse Private Investment Advice) v. Little*, 2009 CanLII 43663 (ON SC), at para. 15, citing *Rogers Cable TV Ltd. v. 373041 Ontario Ltd.* (1994), 22 O.R. (3d) 25 (Gen. Div.)).

- [4] Summary judgment will be appropriate where (1) I am able to make the necessary findings of fact, based on the record and my enhanced powers under rules 20.04(2.1) and 20.04(2.2); (2) I am able to apply the law to the facts; and (3) the motion process is a proportionate, more expeditious, and less expensive means to achieve a just result than going to trial (*Hyrniak*, at para. 49).
- [5] The defendants did not tender any evidence on this motion. This is so notwithstanding their obligations under rule 20.02(2) and the fact that the steps for this motion, including the defendants' delivery of responding motion materials, were timetabled.
- [6] Nor did the defendants attend the hearing of the motion, even though they were properly served with the plaintiff's materials and were aware of this hearing date and Zoom coordinates. Court staff contacted their counsel of record who confirmed they would not be attending the hearing.
- [7] I am of the view that it is appropriate to grant summary judgment. There is no genuine issue requiring trial in this matter. I make this finding based on the record before me, without having to rely on the enhanced fact-finding powers set forth in rule 20.04(2.1).
- [8] I am able to make the necessary factual findings based on the uncontested record before me. The record makes the following facts clear:
- a) The defendants gave a guarantee, dated October 31, 2023, securing a \$9 million loan made by the plaintiff to various borrowers (2749 Lakeshore Inc., 2749 Lakeshore LP, 2765 Lakeshore GP Inc., and 2765 Lakeshore LP).
  - b) In the guarantee, the defendants guaranteed the borrowers' obligations to the plaintiff under a previously signed commitment letter, including payment of the principal loan amount and interest and any costs for enforcing the guarantee.
  - c) The loan is in default.
  - d) The plaintiff demanded payment from the defendants, pursuant to the guarantee.
  - e) The defendants failed to make any payment despite the demands and the loan maturing.
- [9] I am able to apply the law to these facts. It is clear as a matter of law that, in the face of the borrowers' default, the defendants are obligated by the guarantee to pay the principal loaned to the borrowers, together with interests and the costs of enforcing the guarantee. The defendants' liability to make payment under the guarantee arose after demand for payment was given. They are subject to a clear contractual obligation.

- [10] There is no genuine issue requiring trial on these points. The respondents have not participated in this motion and accordingly have advanced no defence before me. To the extent that their pleading appears to assert a defence that the plaintiff ought to have pursued the borrowers for repayment, rather than the defendants, that claim is incorrect based on the terms of the guarantee, and accordingly raises no genuine issue requiring trial.
- [11] Nor is there a genuine issue as to damages. The record is clear as to the principal loaned and outstanding and the applicable interest rates.
- [12] Finally, I am of the view that the motion process is a proportionate, more expeditious, and less expensive means to achieve a just result than going to trial. I see no reason why this matter should go to trial when it can be determined efficiently and fairly by way of this motion, to which the respondents have chosen not to respond.
- [13] The plaintiff is entitled to the following amounts, based on the terms of the guarantee:
- a) The sum of \$9,126,162.71 together with prejudgment interest from April 11, 2025, to May 1, 2025, at the rate equal to the greater of 12.25% per annum and the Royal Bank of Canada Prime Rate plus 5.05% per annum;
  - b) Prejudgment interest on the sum of \$9,126,162.71 from May 2, 2025, to the date of judgment, and post judgment interest at the rate equal to the greater of 18.00% per annum and the Royal Bank of Canada Prime Rate plus 10.80% per annum; and
  - c) Its costs of enforcing the guarantee on a substantial indemnity basis, in the amount of \$34,000 inclusive of fees, disbursements, and HST.

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Ira G. Parghi

**Date:** March 27, 2026