

# COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Wang v. The Owners, Strata Plan LMS  
2970,*  
2023 BCCA 265

Date: 20230621  
Docket: CA47570

Between:

**Yi Wang**

Appellant  
(Petitioner)

And

**The Owners, Strata Plan LMS 2970**

Respondent  
(Respondent)

Before: The Honourable Madam Justice Fenlon  
The Honourable Justice Dickson  
The Honourable Justice Skolrood

On appeal from: An order of the Supreme Court of British Columbia, dated  
June 18, 2021 (*Wang v. The Owners Strata Plan LMS 2970,*  
Vancouver Dockets S1912898; S1913680).

## Oral Reasons for Judgment

The Appellant, appearing in person  
(via videoconference):

Y. Wang

No one appearing on behalf of the  
Respondent

Place and Date of Hearing:

Vancouver, British Columbia  
June 21, 2023

Place and Date of Judgment:

Vancouver, British Columbia  
June 21, 2023

**Summary:**

*The appellant appeals an order of a chambers judge upholding the order of a master directing the appellant to file a Notice of Hearing at least 21 days before the date set for hearing the petition in the underlying proceeding. The appellant submits the master had no authority to extend the minimum seven-day period for filing a Notice of Hearing to 21 days; that the master treated her unfairly and subjected her to cruel and unusual treatment infringing her s. 12 Charter rights; and that the chambers judge erred in upholding the master's order. Held: Appeal dismissed. The master had the authority to extend the period for filing a Notice of Hearing to 21 days. The Court declines to address the constitutional question because the appellant did not argue it before the chambers judge and the appeal is moot.*

[1] **DICKSON J.A.:** The appellant, Yi Wang, appeals the June 18, 2021 order of Justice Funt upholding the May 3, 2021 order of Master Dick directing her to file a Notice of Hearing at least 21 days before the date set for the hearing of the petition in the underlying proceeding, which concerns a decision of the Civil Resolution Tribunal. Her subsequent application for an order staying Master Dick's order pending this appeal was dismissed on July 5, 2021 and, on July 6, 2021, Ms. Wang filed the Notice of Hearing in accordance with Master Dick's order. The petition hearing proceeded as scheduled on July 30, 2021, and the petition was ultimately disposed of in due course.

[2] In Ms. Wang's submission, Master Dick had no authority to extend the minimum seven-day period for filing a Notice of Hearing provided for in Rule 16-1 to 21 days. She contends Master Dick treated her unfairly and subjected her to cruel and unusual treatment, thus infringing her s. 12 *Charter* rights, and Justice Funt erred in upholding Master Dick's order. In support of her submission, Ms. Wang emphasizes that on May 18, 2021, in a separate proceeding involving the same parties, Master Taylor declined to extend the seven-day period, despite being asked to do so by counsel for the respondent, Owners of Strata Plan LMS 2970, who were also respondents in that separate proceeding. She says she was harmed psychologically by the unfair treatment meted out by Master Dick and seeks an apology by way of remedy.

[3] Ms. Wang concedes that she did not raise the constitutional argument upon which she relies before Justice Funt on her appeal of Master Dick's order. She says

that she did not appreciate the argument was available to her at the time, but, having realized that it is, she asks us to hear the argument because it is in the public interest for a precedent to be established on this important point.

[4] I am not persuaded by Ms. Wang’s submissions. The *Rules* provide that a Notice of Hearing is to be filed and served “at least 7 days” before the hearing date. In other words, the seven-day period is set as a minimum and is subject to the discretion of the court. In addition, and in any event, in my view, Ms. Wang’s appeal should be dismissed based on the doctrine of mootness articulated in *Borowski v. Canada (Attorney General)*, [1989] 1 S.C.R. 342. Given that she filed the Notice of Hearing as required and the petition has been disposed of, there is no remaining live controversy to be determined. Accordingly, there would be no practical effect for this Court to decide the appeal.

[5] Nor has Ms. Wang provided a sound basis upon which this Court should exercise its discretion to depart from its usual practice of declining to address a moot question. The constitutional question upon which Ms. Wang relies was not raised before Justice Funt and, therefore, we do not have the benefit of the analysis of a first instance court. In addition, we do not have the benefit of an adversarial context in the absence of responding arguments. In my view, it would not represent a good use of scarce judicial resources to address the question given the overall circumstances of the case.

[6] For these reasons, I would dismiss the appeal.

[7] **FENLON J.A.:** I agree.

[8] **SKOLROOD J.A.:** I agree.

[9] **FENLON J.A.:** The appeal is dismissed.

“The Honourable Justice Dickson”