



Civil Resolution Tribunal

Date Issued: December 14, 2018

File: SC-2018-001862

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Stefanek et al v. Adhi Developments Ltd. et al*, 2018 BCCRT 857

B E T W E E N :

Heather Stefanek and Douglas Stefanek

APPLICANTS

A N D :

Adhi Developments Ltd. and Sukhdev Nahal

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Kate Campbell

INTRODUCTION

1. The applicants, Heather Stefanek and Douglas Stefanek, purchased a strata lot in March 2017. The applicants seek an order that the respondents release a \$500 holdback related to the sale, and an order that the respondents reimburse them \$112.89 for property taxes.

2. The respondents, Adhi Developments Ltd. and Sukhdev Nahal, deny the applicants' claims.
3. The applicants are self-represented. Respondent Sukhdev Nahal is President of Adhi Developments Ltd., and represents both respondents.

JURISDICTION AND PROCEDURE

4. These are the formal written reasons of the Civil Resolution Tribunal (tribunal). The tribunal has jurisdiction over small claims brought under section 3.1 of the *Civil Resolution Tribunal Act* (Act). The tribunal's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the tribunal must apply principles of law and fairness, and recognize any relationships between parties to a dispute that will likely continue after the dispute resolution process has ended.
5. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. In the circumstances here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the tribunal's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary. I also note that in *Yas v. Pope*, 2018 BCSC 282 at paragraphs 32 to 38, the BC Supreme Court recognized the tribunal's process and found that oral hearings are not necessarily required where credibility is in issue.
6. The tribunal may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law. The tribunal may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.

7. Under tribunal rule 126, in resolving this dispute the tribunal may: order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the tribunal considers appropriate.

ISSUES

8. The issue in this dispute is whether the respondents owe the applicants \$500 for the holdback and \$112.89 for property taxes.

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, the applicant bears the burden of proof, on a balance of probabilities. I have only addressed the evidence and arguments to the extent necessary to explain my decision.
10. I find the applicants have not established that the respondents owe them any money related to the sale of the strata lot. This is because the documents in evidence do not establish that either respondent owned the strata lot at the time the applicants bought it.
11. Neither party provided a copy of the purchase contract. However, the provided documents, including email correspondence, a deficiencies list, and a buyers' statement of adjustments, identify the seller as "466558 BC Ltd." I note that Dave Nahal, who appears to be same person as Sukhdev Nahal, signed the deficiencies list on behalf of 466558 BC Ltd. However, this does not establish that the respondent Sukhdev Nahal owned the property in question, or that he was a party to a real estate purchase contract with the applicants.
12. Rather, I find the documents in evidence establish that the applicants bought the strata lot from 466558 BC Ltd. Since that corporation was not named as a party to this dispute, and since the applicants have not proven that any contract existed between them and either respondent, I find that the applicants are not entitled to any remedy in this dispute. The applicants' claims, and this dispute, are therefore

dismissed. Nothing in this decision prevents the applicants from pursuing a claim against the seller of the property, 466558 BC Ltd.

13. The tribunal's rules provide that the successful party is generally entitled to recovery of their fees and expenses. The applicants were unsuccessful and so I dismiss their claim for reimbursement of dispute-related expenses. Neither party claimed reimbursement of tribunal fees, so none is ordered.

ORDER

14. I dismiss the applicants' claims and this dispute.

Kate Campbell, Tribunal Member