



# Civil Resolution Tribunal

Date Issued: April 30, 2019

File: SC-2018-008042

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *0765943 BC Ltd. v. Narsih*, 2019 BCCRT 515

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

0765943 BC Ltd.

**APPLICANT**

**A N D :**

Harivadan Narsih

**RESPONDENT**

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## **REASONS FOR DECISION**

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Tribunal Member:

Sarah Orr

### **INTRODUCTION**

1. The applicant, 0765943 BC Ltd. sold a strata lot to the respondent, Harivadan Narsih. The applicant wants the respondent to reimburse them \$1,141.90 for property taxes they say they paid to the City of Burnaby for the property, and \$50 for a search to confirm that the respondent had not paid already property taxes on that property.

2. The respondent says he is not responsible for paying the property taxes.
3. The applicant is represented by an employee and the respondent is self-represented.

## **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 118 of the *Civil Resolution Tribunal 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. I decided to hear this dispute through written submissions, because I find that there are no significant issues of credibility or other reasons that might require an oral hearing.
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 9.3 (2) (formerly 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.

## **ISSUE**

8. The issue in this dispute is whether the respondent is required to reimburse the applicant \$1,141.90 for property taxes and \$50 for a search fee.

## EVIDENCE AND ANALYSIS

9. In a civil claim like this one, the applicant must prove their claim on a balance of probabilities. This means I must find it is more likely than not that the applicant's position is correct.
10. I have only addressed the parties' evidence and submissions to the extent necessary to explain and give context to my decision. For the following reasons, I dismiss the applicant's claims.
11. The applicant sold a strata lot (property) to the respondent on May 10, 2018. The strata complex was created in March 2018, and at the time the sale completed the City of Burnaby had not yet allocated the applicable taxes to the property because it was so new. The applicant says they calculated the property tax adjustment for the sale of the property as an estimate, with a readjustment to occur once the parties learned the exact amount of taxes.
12. The revised seller statement of adjustments in evidence shows the seller as Nita Developments Ltd., Kirpal Properties Ltd. and SVM Properties Ltd. The applicant is not named anywhere on this document. The statement shows the amount of 2018 property tax at \$538.74, and it shows the seller agreed to pay \$190.40 of this, which is the portion for January 1 to May 9, 2018 before the applicant owned the property.
13. The relevant notes to the statement say, "If the current year's taxes are not known, the tax adjustment has been based on the previous year's taxes, plus an estimated increase. Once the current year's taxes are known, the readjustment of taxes may be settled directly between the parties," and "If the Buyers receive a credit for taxes, then it shall be the Buyers' responsibility to pay the current year's taxes in full when due, unless otherwise specified herein."
14. The respondent says the applicant could have requested a special assessment from the City of Burnaby to determine the individual strata lot assessments for 2018 at the time of the sale but did not do so. However, there is no indication the applicant was under any obligation to make such a request.

15. On June 1, 2018 the City of Burnaby sent the applicant the 2018 property tax notice for the entire strata complex for a total of \$31,194.76, which the applicant paid immediately to avoid penalty. That notice did not allocate the amount to individual strata lots and so the applicant says they were required to make those calculations.
16. On July 6, 2018 counsel for the applicant sent the respondent a letter demanding payment of \$1,141.90. The letter says the counsel had determined 2018 taxes for the property were \$1,471.60 based on the respondent's unit entitlement, however the statement of unit entitlement is not in evidence. The letter says the respondent was required to pay \$951.50 of that amount, which is the portion from May 10 to December 31, 2018 when the respondent owned the property, plus repayment of the \$190.40 credit to the respondent indicated on the statement of adjustments, for a total of \$1,141.90. The letter says the seller is SVM Properties Ltd. and the applicant is not mentioned anywhere in the letter.
17. The respondent told the applicant he had already paid taxes on the property for 2018, however the applicant says they paid \$50 for a search which confirmed the applicant had not paid any taxes on the property for 2018. The applicant submitted a 2018 tax ledger for the property showing a payment of \$525.90 on June 6, 2018, which appears to be payment for utilities taxes. I am satisfied that this document shows the respondent had not paid property taxes on the property. As the respondent points out, this document also does not show the applicant's payment of property taxes on June 1, 2018, even though it shows transactions both before and after that date.
18. The applicant submitted an email dated October 11, 2018 from the notary public who assisted the respondent with the purchase of the strata lot telling him he is required to pay the developer \$1,141.90 in property taxes. This email does not explain how the amount was calculated, nor does it refer to the applicant.
19. It is the applicant's responsibility to establish the respondent is required to pay them \$1,141.90 in property taxes, and I find they have not done so for 2 reasons. First, none of the documentary evidence names the applicant as the seller of the

property, and the applicant is not a signatory to the statement of adjustments. The applicant's role in the strata complex and in the transaction with the respondent is unclear. While the evidence establishes that the applicant paid the 2018 property taxes for the strata complex which appears to include the respondent's property, they have not explained their relationship to SVM Properties Ltd., Nita Developments Ltd., or Kirpal Properties Ltd., who are named as the sellers on the statement of adjustments. There is no evidence the respondent had an agreement with the applicant and no evidence the applicant has a legal assignment of rights under the contract of sale and statement of adjustments.

20. Secondly, even if the applicant is the correct party, I find they have not established how they determined the amount of property taxes the respondent owes them. Their counsel's letter of July 6, 2018 says they determined the amount of the property taxes based on the unit entitlement, but that unit entitlement is not in evidence even though I expect it is readily available. The fact that the respondent's notary public told him he owes the developer \$1,141.90 in property taxes does not assist me in determining how the applicant calculated the amount owing. I also note that email does not refer to the applicant, but simply to the "developer." I find the applicant has not established the respondent owes them \$1,141.90 in property taxes and I dismiss this claim.
21. Under section 49 of the Act, and tribunal rules, since the applicant was unsuccessful I find they are not entitled to reimbursement of their tribunal fees. The applicant claims \$50 for a search fee to confirm the respondent had not yet paid 2018 property taxes. However, I find this to be a dispute-related expense, and since the applicant was not successful I find they are not entitled to this amount. I dismiss this claim.

## **ORDER**

22. I dismiss the applicant's claims and this dispute.

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Sarah Orr, Tribunal Member