



Civil Resolution Tribunal

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Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Singh v. Li*, 2022 BCCRT 806

BETWEEN:

INDERMANN SINGH and PARMINDER SINGH

APPLICANTS

AND:

YONG LONG LI and CAIYAN LIN

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Micah Carmody

INTRODUCTION

1. The applicants, Indermann Singh and Parminder Singh, say they purchased a home from the respondents, Yong Long Li and Caiyan Lin.

2. The applicants say the respondents failed to complete a number of property repairs as required by an addendum to the contract of purchase and sale (CPS). The applicants also say the respondents failed to disclose issues such as blocked drains and leaking gutters. Finally, the applicants say the respondents removed a digital video recorder and cut wires on the home's surveillance system and failed to provide an alarm code. The applicants seek \$4,956.52 in damages.
3. The respondents say they fulfilled their contractual responsibilities. I infer that they ask me to dismiss the claim.
4. The applicants are represented by Indermann Singh. The respondents represented themselves when they were participating.

JURISDICTION AND PROCEDURE

5. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). Section 2 of the CRTA states that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT must apply principles of law and fairness, and recognize any relationships between the dispute's parties that will likely continue after the CRT process has ended.
6. Section 39 of the CRTA says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice.
7. Section 42 of the CRTA says the CRT 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 CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.

8. Where permitted by section 118 of the CRTA, in resolving this dispute the CRT may order a party to do or stop doing something, pay money or make an order that includes any terms or conditions the CRT considers appropriate.

ISSUES

9. The issues in this dispute are:
 - a. Did the respondents breach any terms of the CPS or the addendum?
 - b. Did the respondents fail to disclose known latent defects in the home?
 - c. What remedies, if any, are appropriate?

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, the applicants must prove their claims on a balance of probabilities, meaning more likely than not. I have considered all the parties' evidence and submissions, but only refer to what is necessary to explain my decision. The respondents did not submit evidence or arguments, despite having the opportunity to do so.
11. Neither party provided a copy of the CPS, but the respondents did not dispute the existence of a binding CPS. The applicants provided a signed copy of a March 15, 2021 addendum to the CPS listing repairs the respondents were to make in exchange for removal of the "inspection condition" from the CPS.
12. Only the respondents and Parminder Singh are listed as parties to the CPS addendum. The addendum similarly refers to the March 1, 2021 CPS as being between the respondents and Parminder Singh. As the applicants do not provide any

basis for Indermann Singh's claim against the respondents, I dismiss Indermann Singh's claim. I refer to Parminder Singh as Mr. Singh in the rest of this decision.

13. Mr. Singh obtained a pre-purchase inspection and included the inspection report in evidence.

Did the respondents complete the repairs identified in the CPS addendum?

14. The CPS addendum said the respondents agreed to perform 13 specific repairs and to provide a "formal receipt of such work done by a certified professional" before the CPS's completion date.
15. Many of the repairs identified in the CPS addendum are somewhat vague and uncertain. However, the respondents did not argue that the CPS addendum's terms are unenforceable for uncertainty or any other reason. To interpret the CPS addendum, I have attempted to determine the objective meaning of the words, as informed by the surroundings circumstances where necessary (see *Tai An Holding Company Ltd. v. Boyal*, 2022 BCSC 821 at paragraphs 53 and 54).
16. I consider the repairs that Mr. Singh alleges the respondents failed to complete below.
17. *Rodents* – In clause 10, the respondents agreed to "ensure that measures have been taken to eliminate future rodents." Mr. Singh's unchallenged evidence, which I accept, is that the respondents did not take any measures to eliminate rodents. Further, an April 27, 2021 invoice from ASM Pest Control says none of the outside bait stations had any bait and it seemed they had not been filled recently. So, I find the respondents breached clause 10. I allow the claimed \$262.50 for rat control services, which was supported by the ASM invoice.
18. *Fixtures and faucets* – In clause 9, the respondents agreed to repair or replace "various bathrooms hot water shut-off valves and faucets." Mr. Singh's unchallenged evidence, which I accept, is that the powder room faucet and primary bath faucets were not repaired. I allow the claimed \$142.46 for parts and \$180 for labour, totalling

\$322.46. I do not allow the parts and labour costs for toilet seats or kitchen faucet repair, as those items were not identified in the CPS addendum.

19. *Carpets* – In clause 13, the respondents agreed to have all carpets professionally cleaned. From the photos showing extensive stains, I find on balance that the carpets were not professionally cleaned. Although in an email the respondents told Mr. Singh that they hired a “maid” to vacuum the house, I find professional cleaning requires the application of steam, shampoo or some other product to remove dirt and stains (see *Miller v. MacLean*, 2021 BCCRT 830). I allow the claimed \$950, which was supported by an Action Care invoice.
20. *Exterior drainage* – In clause 2, the respondents agreed to engage an inspection of the “basement foundation drain pipes (Big-O) to ensure that they are not obstructed.” Mr. Singh says these drain pipes were clogged and allowed rain water to collect around the foundation. A video shows what appears to be a blocked pipe being manually unclogged. I note that I have only viewed the video in evidence and not any links to videos Mr. Singh provided because the information at the links may have changed. On balance, I find the respondents likely did not have the drains inspected for obstructions. I allow the \$750 claimed for drain clearing, which was supported by an invoice.
21. *Swimming pool* – Clause 12 says “the swimming pool equipment requires certification that it is all in proper working order”. Mr. Singh says the pool pump did not run properly and the cover did not operate correctly. There is no evidence that the respondents obtained certification that the pool equipment was in proper working order. I allow the \$300 claimed for a replacement used pool pump. Mr. Singh says he is not claiming anything for the pool cover.

Did the respondents fail to disclose known latent defects in the home?

22. Mr. Singh says rainwater was getting into the attic through the fascia and wooden soffit due to damaged copper pipes that attached the gutters to the downspout. An invoice from Stanford’s Gutters shows it repaired “gutter lining, copper pipes” and

“water damage”. Elsewhere, Mr. Singh says rain also dripped down from a dining room window, and a few days later water dripped from the basement ceiling. He says there was clearly a serious water or moisture issue.

23. The principle of “buyer beware” generally applies to home sales. A buyer is required to make reasonable pre-purchase enquiries about the property. Exceptions include negligent or fraudulent misrepresentations and the seller’s duty to disclose known latent defects (see *Nixon v. MacIver*, 2016 BCCA 8).
24. A latent defect is one that a buyer cannot discover through reasonable inspection. A patent defect is one that can be discovered through inquiry or reasonable inspection. A seller does not have to disclose patent defects to a buyer, but cannot actively conceal them (see *Cardwell v. Perthen*, 2007 BCCA 313).
25. On balance, I accept that there were water penetration issues that were not discoverable upon a reasonable inspection. First, the inspector performed a visual inspection of the attic but was prevented from moving around the attic safely because of insulation covering the joists. So, I find any leaks into the attic would not have been reasonably apparent. Second, the inspection report said it is “virtually impossible” to detect a leak except when the leak is occurring or by specific tests that were beyond the scope of the inspection. So, I find the water penetration was a latent defect.
26. Mr. Singh says the respondents “lied” on the property disclosure statement (PDS). The PDS is a document in which the seller provides relevant information about the condition of the home to the buyer. The PDS does not form part of the parties’ contract unless agreed by the parties, typically by inserting a clause in the CPS to that effect. Mr. Singh says the PDS was part of the parties’ contract. The difficulty for Mr. Singh is that he failed to provide a copy of the CPS, so I cannot verify that the parties incorporated the PDS into the CPS. I find he cannot claim that the respondents’ failure to disclose a water penetration defect was a breach of contract. Based on the reasoning in *Hanslo v. Barry*, 2011 BCSC 1624 at paragraphs 92-95, Mr. Singh also cannot rely on the law of negligent misrepresentation as it pertains to the PDS.

27. That leaves Mr. Singh to rely on the common law exception to *caveat emptor* set out in *Cardwell*. That exception is, in essence, an obligation on sellers to disclose known latent defects that could make the property unfit or dangerous for living. The issue for Mr. Singh here is that he provided little evidence that the water penetration issues could make the property dangerous or uninhabitable. There is little evidence about the extent of the water penetration and damage. There is no evidence of mould growth, for example. There is no evidence, expert or otherwise, about the potential effect of the water penetration on the home's habitability. Overall, I find Mr. Singh has not established a latent defect that could make the property unfit or dangerous for living. As a result, I dismiss this aspect of Mr. Singh's claim.

Other claims

28. Mr. Singh says the respondents took a video surveillance digital video recorder (DVR), cut some related wires, and did not provide an alarm code. He says he had to buy new equipment and hire contractors to make the surveillance and alarm systems operational. Mr. Singh does not say that there was a term in the CPS that the home and all included items would be in substantially the same condition on possession as when viewed by Mr. Singh. Nor does Mr. Singh say the respondents agreed to provide the alarm code. Because Mr. Singh did not provide the CPS, I cannot find that such terms and conditions existed. As a result, I find it unproven that the respondents breached the parties' contract with respect to the surveillance system and alarm. I dismiss this aspect of Mr. Singh's claim.

29. Mr. Singh raised several other defects and repairs he had to make, but said he was not claiming amounts for those defects and repairs, so I have not considered them.

Conclusion, expenses and interest

30. I have allowed Mr. Singh's claims of \$262.50 for rodent control, \$322.46 for faucets and fixtures, \$950 for carpet cleaning, \$750 for drain cleaning, and \$300 for a pool pump. In total, I find Mr. Singh entitled to \$2,584.96 in damages.

31. The *Court Order Interest Act* applies to the CRT. Mr. Singh is entitled to pre-judgment interest on the damages from the April 30, 2021 completion date to the date of this decision. This equals \$15.29.
32. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. I see no reason in this case not to follow that general rule. I find Mr. Singh was generally successful and is entitled to reimbursement of \$175 in CRT fees.
33. Mr. Singh also claimed \$5,000 for time spent on “research to repairs and resolved for a reasonable price. Also to prepare the case to get our money back.” CRT rule 9.5(5) says the CRT will not order a party to compensate another party for time spent on the CRT proceeding except in extraordinary circumstances. I find there no extraordinary circumstances in this dispute. As for time spent on repairs and repair research, Mr. Singh provided no evidence to support this claim, such as time sheets or a log, so I dismiss it.

ORDERS

34. Within 30 days of the date of this order, I order the respondents to pay Parminder Singh a total of \$2,775.25, broken down as follows:
 - a. \$2,584.96 in damages,
 - b. \$15.29 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$175.00 in CRT fees.
35. I dismiss Indermann Singh’s claims.
36. Parminder Singh is entitled to post-judgment interest, as applicable.

37. Under section 58.1 of the CRTA, a validated copy of the CRT's order can be enforced through the Provincial Court of British Columbia. Once filed, a CRT order has the same force and effect as an order of the Provincial Court of British Columbia.

Micah Carmody, Tribunal Member