



No. S-252591
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

KINGSETT MORTGAGE CORPORATION

PETITIONER

AND:

**1069016 B.C. LTD., 1183011 B.C. LTD., MANOJ SIKKA,
MARK JOSEPH CATROPPA and SAMIRA PERERA**

RESPONDENTS

NOTICE OF APPLICATION

Name of applicant: KingSett Mortgage Corporation (the “**Petitioner**” or “**KingSett**”)

On notice to:

1069016 B.C. Ltd.

Attention: Mark Joseph Catroppa and Samira
Perera
203 – 1688 152 Street
Surrey, BC V4A 4N2

Manoj Sikka

203 – 1688 152 Street
Surrey, BC V4A 4N2

Samira Perera

585 – 555 West 12th Avenue
Vancouver, BC V5Z 3X7

1183011 B.C. Ltd.

Attention: Mark Joseph Catroppa and Samira
Perera
203 – 1688 152 Street
Surrey, BC V4A 4N2

Mark Joseph Catroppa

203 – 1688 152 Street
Surrey, BC V4A 4N2

TAKE NOTICE that an application will be made by the applicant(s) to the Honourable Justice Masuhara at the courthouse at 800 Smithe Street, Vancouver, BC on May 13, 2025 at 10:00 a.m. for the order(s) set out in Part 1 below.

The applicant(s) estimate(s) that the application will take 45 minutes.

[Check the correct box.]

- ☐ This matter is within the jurisdiction of an associate judge.
- ☒ This matter is not within the jurisdiction of an associate judge.

Part 1: ORDER(S) SOUGHT

1. The Petitioner seeks the following Declarations and Orders, substantially in the form attached as Schedule “A”:
 - (a) A declaration that the first mortgage loan in the amount of \$4,160,000 (the “**Loan**”), provided for in the Commitment Letter (as defined below) to 1069016 B.C. Ltd. and 1183011 B.C. Ltd. (collectively, the “**Borrowers**”) by KingSett is in default.
 - (b) A declaration that the unlimited, personal, joint and several guarantee (the “**Guarantee**”) executed by the respondents Manoj Sikka, Mark Joseph Catroppa and Samira Perera (collectively, the “**Guarantors**”) on June 17, 2020 in respect of which a financing statement was filed in the British Columbia Personal Property Registry (the “**PPR**”) under base registration number 285012M is a valid and enforceable guarantee, and constitutes a charge in favour of KingSett.
 - (c) Judgment against the Guarantors, jointly and severally, in the amount of \$4,339,747.24 as of April 2, 2025, plus interest from and after the date of this Notice of Application at the Contractual Interest Rate (as defined below) or in the alternative, pursuant to the *Court Order Interest Act*, RSBC 1996, c 79.
 - (d) Such further and other relief as counsel may advise and this Court deems to be just and convenient in the circumstances.

Part 2: FACTUAL BASIS

Loan Agreement and Security

1. Pursuant to a commitment letter dated June 9, 2020, as amended by the first amendment dated August 4, 2020, the second amendment dated August 11, 2023, the third amendment dated October 16, 2023, and the fourth amendment dated July 16, 2024 (as may be

amended, restated, or supplemented from time to time, the “**Commitment Letter**”), KingSett provided the Loan to the Borrowers.

2. Pursuant to the Commitment Letter, the Borrowers agreed, among other things:
 - (a) to make the regular monthly interest payments on the terms set out herein;
 - (b) to pay KingSett accrued interest a rate of the Royal Bank of Canada’s “Prime Rate” plus 2.25% (with a floor rate of 9.45%) per annum, calculated on the daily outstanding balance, compounded and payable monthly (the “**Contractual Interest Rate**”);
 - (c) to pay KingSett all costs and expenses incurred by KingSett in connection with the Loan;
 - (d) that failure to make the regular interest payments when due would constitute an express event of default thereunder;
 - (e) that if a default occurs, KingSett has the right to demand repayment in full of all the principal and interest on the Loan and any other amount due under the Commitment Letter or the Security (as defined in the Commitment Letter), and may declare the principal and interest on the Loan, and any amount due under the Commitment Letter forthwith due and payable; and
 - (f) that if a default occurs, KingSett has the right to appoint a receiver over property of the Borrowers.
3. The security package for the Loan includes, among other things:
 - (a) the Guarantee executed by the Guarantors guaranteeing the due payment, observance and performance of all of the Borrowers’ Obligations and Liabilities (both as defined in the Guarantee) including, without limitation, the Borrowers’ covenant to pay the Loan and interest. The Guarantee is registered at the PPR under base registration number 285012M;

- (b) an assignment and postponement of claims dated June 17, 2020, granted by the Guarantors in favour of KingSett;
 - (c) an indemnity agreement with respect to the Loan dated June 17, 2020, granted by the Borrowers and the Guarantors in favour of KingSett;
 - (d) an environmental agreement and indemnity dated June 17, 2020 granted by the Borrowers and the Guarantors in favour of KingSett; and
 - (e) a negative pledge by the Borrowers and the Guarantors dated June 17, 2020, not to, among other things, repay any shareholder loans, redeem shares, or pay out dividends until such time as the Loan has been repaid in full, save and except for those development, marketing, and/or leasing fees specifically approved in writing by KingSett.
4. Pursuant to Section 2.2(b) of the Guarantee, in each instance where the Borrowers have agreed to pay KingSett any amount of money, if such amount is not actually paid or provided as and when agreed, the Guarantor shall, upon demand made by KingSett, pay or provide the amount in the exact currency and place as agreed by the Borrowers.
5. Pursuant to Section 2.5(b)(ii) of the Guarantee, the Guarantors waive any right to require KingSett to proceed against or exhaust any security furnished to the Lender by the Borrowers.

The Default and Demand

6. Commencing on December 1, 2024, the Borrowers have failed to make all monthly interest installment payments to KingSett as required pursuant to the Commitment Letter (the “**Default**”).
7. On February 10, 2025, KingSett delivered a letter to the Borrowers formally noting the Default and the Borrowers’ continued failure to make payments as required pursuant to the Commitment Letter.

8. On March 7, 2025, KingSett, through counsel, delivered letters to the Borrowers and the Guarantors, demanding payment of the Borrowers' outstanding indebtedness, which at March 6, 2025, amounted to \$4,297,312.16 (the "**Demand**").
9. To date, the Borrowers and the Guarantors have failed to make payment in response to the Demand.
10. As of April 2, 2025, the Borrowers remain indebted to KingSett in the amount of \$4,339,747.24 (the "**Indebtedness**") as follows:
 - (a) \$4,100,000 with respect to the principal amount due and owing under the Loan;
 - (b) \$163,710.23 with respect to accrued and unpaid interest;
 - (c) \$3,604.99 with respect to costs and charges incurred and unpaid in connection with the Loan; and
 - (d) \$12,432.00 in legal fees incurred in connection with the Loan, with these fees continuing to accrue.
11. The Indebtedness is incurring interest at a rate of \$1,119.81 a day and professional fees continue to be incurred. The Indebtedness is fully due and owing and payable to KingSett, and the Borrowers has failed or neglected, and continues to fail or neglect, to pay.
12. The Indebtedness and the amounts that comprise it are justly due and owing amounts under the Loan and pursuant to the Guarantee, the Guarantors have promised to, on demand, pay Indebtedness. The Guarantors are therefore indebted to KingSett in the full amount of the Indebtedness.

Part 3: LEGAL BASIS

13. KingSett pleads and relies on the common law principle and applicable related statutes related to the laws of contract.
14. The Borrowers are indebted to KingSett in the amount of the Indebtedness, with interest continuing to accrue with respect to the Indebtedness.
15. The Commitment Letter and the Guarantee both constitute binding contracts.

16. The Guarantee has been properly registered with the PPR and provides a security interest in favour of KingSett.
17. In breach of the Commitment Letter, the Borrowers and the Guarantors have refused or neglected to pay the Indebtedness and that interest continues to accrue.

Part 4: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Daniel Pollack, made on April 4, 2025; and
2. Such other materials as counsel may advise and this Court may permit.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7 (9).



Dated: April 30, 2025

For:

Signature of ☐ Applicant(s)
☒ Lawyer for applicant(s)
Mary Buttery, K.C.

To be completed by the court only:

Order made

☐ in the terms requested in paragraphs of Part 1 of this notice of application

☐ with the following variations and additional terms:

.....
.....
.....

Date:[dd/mm/yyyy].....

.....
Signature of ☐ Judge ☐ Associate Judge

Appendix

[The following information is provided for data collection purposes only and is of no legal effect.]

THIS APPLICATION INVOLVES THE FOLLOWING:

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts
- ☐ none of the above

Schedule "A"

Draft Order

(See attached)

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

KINGSETT MORTGAGE CORPORATION

PETITIONER

AND:

1069016 B.C. LTD., 1183011 B.C. LTD., MANOJ SIKKA,
MARK JOSEPH CATROPPA and SAMIRA PERERA

RESPONDENTS

**IN THE SUPREME COURT OF BRITISH COLUMBIA
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE RECEIVERSHIP OF
1069016 B.C. LTD. AND 1183011 B.C. LTD.**

ORDER MADE AFTER APPLICATION: GUARANTOR JUDGMENT

BEFORE } THE HONOURABLE JUSTICE MASUHARA) May 13, 2025

ON THE APPLICATION of the Petitioner, coming on for hearing at 800 Smithe Street, Vancouver, BC V6Z 2E1 on May 13, 2025.

AND ON READING Affidavit #1 of Daniel Pollack made on April 4, 2025; AND ON HEARING Mary Buttery, K.C. and Lucas Hodgson, counsel for KingSett Mortgage Corporation and those other counsel as set out in Schedule “A”.

THIS COURT ORDERS AND DECLARES that:

1. The guarantee dated March June 17, 2020 guarantee executed by Manoj Sikka, Mark Joseph Catroppa and Samira Perera (collectively, the “**Guarantors**”) in favour of KingSett

Mortgage Corporation (“**KingSett**”), constitutes a valid and enforceable guarantee in favour of KingSett.

2. The Guarantee, in respect of which a financing statement was filed in the British Columbia Personal Property Registry against the Guarantors under base registration number 285012M on June 18, 2020 constitutes a valid charge in favour of KingSett on all of the debts and liabilities present and future owed to the Guarantors by the 1069016 B.C. Ltd. and 1183011 B.C. Ltd (collectively, the “**Borrowers**”).
3. The loan advanced by KingSett to the Borrowers in the amount of \$4,100,000 (the “**Loan**”), pursuant to a commitment letter dated June 9, 2020, as amended by the first amendment dated August 4, 2020, the second amendment dated August 11, 2023, the third amendment dated October 16, 2023, and the fourth amendment dated July 16, 2024 is in default, and as of April 2, 2025, the Borrowers are indebted to KingSett its default of the Loan in the amount of \$4,339,747.24 (plus interest and fees that continues to accrue).
4. KingSett is hereby granted judgment against the Guarantors, jointly and severally, in the amount of \$4,339,747.24 as of April 2, 2025 plus interest from and after the date of this Order at the rate of the Royal Bank of Canada’s Prime Rate plus 2.25% (with a floor rate of 9.45%) per annum, calculated on the daily outstanding balance, compounded and payable monthly, or in the alternative, pursuant to the *Court Order Interest Act*, RSBC 1996, c 79.
5. Any interested party may apply to this Court to vary or amend this Order on not less than seven (7) clear business days’ notice to the Service List and to any other party who may be affected by the variation or amendment, or upon such other notice, if any, as this Court may order.

6. Endorsement of this Order by counsel appearing on this application, other than counsel for the Applicant is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE OF THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

APPROVED BY:

Signature of Mary Buttery, K.C., lawyer for the
Applicant

BY THE COURT REGISTRAR

