

Date: 20021003
Docket: CA 179013

NOVA SCOTIA COURT OF APPEAL

Citation: *United Gulf Developments Ltd. v. Legacy Home Builders Ltd.*, 2002 NSCA 118

Glube, C.J.N.S.; Roscoe and Hamilton, J.J.A.

BETWEEN:

UNITED GULF DEVELOPMENTS LIMITED,
GREATER HOMES INC., a body corporate,
NAVID SABERI, SAEID SABERI and MINA
KARIMPOUR

Appellants

- and -

LEGACY HOME BUILDERS LIMITED

Respondent

REASONS FOR JUDGMENT

Counsel: David P.S. Farrar and J. Scott Barnett for the Appellants
Kevin A. MacDonald for the Respondent

Appeal Heard: October 3, 2002

Judgment Delivered: October 3, 2002

THE COURT: The appeal is dismissed with costs of \$1,000.00 plus
disbursements as per oral reasons for judgment of Roscoe, J.A.;
Glube, C.J.N.S. and Hamilton, J.A., concurring

ROSCOE, J.A.: (Orally)

[1] This is an appeal from a decision of Justice Heather Robertson, in Chambers, dismissing the appellants' application to set aside a notice of examination for discovery of Mina Karimpour, who is a named defendant and a director of one of the defendant corporations.

[2] The action arises from a dispute involving an agreement of purchase and sale of several lots of land. The plaintiff corporation claims that the defendant corporations and their directors breached the contract and fraudulently transferred some of the lots subject to the agreement. On the application to set aside the notice of examination for discovery, the appellants filed an affidavit of the president of one of the defendant corporations which said that Ms. Karimpour was appointed a director in name only for taxation purposes, and that she was not involved in any aspect of the business operations of the company.

[3] Justice Robertson, in a brief oral decision found that the plaintiff was entitled to discover the defendant parties and the request for examination for discovery of Ms. Karimpour was not oppressive.

[4] The appellants now submit that the Chambers judge "... made an obvious legal error in failing to take into account the issue of whether or not Ms. Karimpour's testimony has any relevance."

[5] The Chambers judge addressed the relevancy issue during discussion with counsel, stating that plaintiff's counsel would likely "... explore the relationship that exists between the companies and determine what Ms. Mina Karimpour understands relative to some of the information that he has, some of the facts that he has put forward in his pleadings ... it is reasonable for him to have the opportunity to do so given her position as a director of the company."

[6] The order in issue is both discretionary and interlocutory. This court has repeatedly said that it will not interfere with such an order unless wrong principles of law have been applied or a patent injustice would result. See for example, **Exco Corporation Limited v. Nova Scotia Savings and Loan et al.** (1983), 59 N.S.R. (2d) 331; **Coughlan et al. v. Westminer Canada Holdings Ltd. et al.** (1989), 91 N.S.R. (2d) 214; and **Minkoff v. Poole and Lambert** (1991), 101 N.S.R. (2d) 143.

[7] The argument of the appellants is completely without merit and unpersuasive. The plaintiff is entitled to discover the named defendants. The extent of Ms. Karimpour's knowledge of the transactions at issue and of the general affairs of the corporation of which she is a director is of sufficient relevance. In our opinion, the Chambers judge made no error in fact or in law in reaching her conclusion.

[8] The appeal is dismissed with costs payable to the respondent in the amount of \$1,000.00, plus disbursements, payable forthwith and in any event of the cause.

Roscoe, J.A.

Concurred in:

Glube, C.J.N.S.

Hamilton, J.A.