

NOVA SCOTIA COURT OF APPEAL

Citation: *Bledin v. Royal Bank of Canada*, 2015 NSCA 109

Date: 20151202

Docket: CA 437363

Registry: Halifax

Between:

Lori Ann Bledin

Appellant

v.

Royal Bank of Canada

Respondent

Judges: **Bryson, Saunders and Van den Eynden, JJ.A.**

Appeal Heard: November 25, 2015, in Halifax, Nova Scotia

Held: Appeal dismissed per reasons for judgment of Saunders, J.A.;
Bryson and Van den Eynden, JJ.A. concurring.

Counsel: Appellant in person with Martin Kaelble speaking on
appellant's behalf
Joshua J. Santimaw, for the respondent

Reasons for judgment:

[1] After hearing Mr. Kaelble’s submissions on behalf of his wife, Ms. Bledin, we recessed and then returned to court to announce our unanimous decision that the appeal was dismissed with reasons to follow. These are our reasons.

[2] Ms. Bledin has appealed the oral decision and confirmatory order of Nova Scotia Supreme Court Justice Frank C. Edwards dated March 3, 2015, which granted the motion for summary judgment on the evidence brought by the Royal Bank of Canada, struck out the defence she had filed, and awarded costs against her in the amount of \$500.00 payable forthwith.

[3] She asks that the “summary judgment be rescinded”, the execution and enforcement of the order be stayed, and that a trial date be scheduled so that the Bank’s claim and her defence may be addressed on their merits.

[4] On appeal, the arguments advanced in her factum allege error on the part of the motions judge in “ignoring the implications of s. 24(1) of the *Farm Debt Mediation Act*, S.C. 1997, c. 21”; “in not considering the penalties for the contravention of the *FDMA*”; and “in not exploring the tort of interference of economic relations by third parties” which she said “... denied ... due process”.

[5] Largely on the basis of the submissions contained in the thorough and persuasive factum filed by Messrs. Brown and Santimaw for the respondent, we are unanimously of the opinion that there is no merit to the appeal and that it ought to be dismissed.

[6] It is enough for us to offer a brief outline of our reasons.

[7] The motions judge referred to, and properly applied, this Court’s decision in *Coady v. Burton Canada Co.*, 2013 NSCA 95. Edwards J. was right to find that the Bank, as the moving party, had shown that its mortgage with Ms. Bledin was valid and that she was in default. He was also right to find that Ms. Bledin failed to provide any evidence to rebut the validity of the mortgage or show that she was not in default under its terms. Thus, there were no material facts in dispute and, in order to defeat the Bank’s motion for summary judgment Ms. Bledin then bore the evidentiary burden of showing that her defence had a real chance of success. This she failed to do – a point which was graciously conceded by Mr. Kaelble during

his submissions before us – and so the motions judge was obliged to grant summary judgment.

[8] Further, Justice Edwards did not err in principle or in the exercise of his discretion when he found that Ms. Bledin had failed to produce any evidence that the Bank had disclosed confidential information of hers which had caused her any economic harm or would somehow amount to a defence to the main action.

[9] In any event, at its highest, this particular complaint alleging a breach of her personal economic interests is not a valid defence to the main action for default under the mortgage, and would instead only serve as a possible basis for a counterclaim or a third party claim for damages.

[10] Finally, while not relevant to the motion for summary judgment, since there was no evidence of any breach of the *FDMA* by the Bank, there was no need for the motions judge to consider the penalties prescribed under that *Act*.

[11] We would dismiss the appeal with costs of \$750.00 inclusive of disbursements payable to the respondent forthwith.

Saunders, J.A.

Concurred in:

Bryson, J.A.

Van den Eynden, J.A.