

CITATION: TSCC No. 1678 v. 779857 Ontario Inc., 2021 ONSC 3444
COURT FILE NO.: CV-19-630379
DATE: 20210511

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: TSCC No. 1678, Plaintiff

AND:

779857 Ontario Inc., Defendant

BEFORE: F. L. Myers, J.

COUNSEL: *John De Vellis* and *Inderpreet Suri*, Counsel, for the Plaintiff

No one appearing for the Defendant

HEARD: May 10, 2021 via videoconferencing

ENDORSEMENT

Relief requested

[1] Order for foreclosure.

Disposition

[2] Unopposed order granted as sought.

Brief Reasons

[3] The respondent owns approximately a dozen parking spots in a condominium property in East Toronto. It is in default of common area expenses. The applicant has a lien under the statute and proposes to foreclose on the condominium units. I am not comfortable that a foreclosure remedy was necessarily intended by the very sparse wording of subsection 85 (6) of the *Condominium Act, 1998*. Nevertheless, I am very comfortable that the respondent knows of the preceding and has chosen to allow it to go by default.

[4] The applicant has made extensive efforts to serve its originating process and then again the materials for this motion. It served the respondent at its corporate address. It sent materials to the operating mind overseas. In addition, it sent material to an adult grandchild of the principal who is in

Toronto. It has obtained an order for substitute service. At one point early in the dispute, counsel had contact with the grandchild. I find that the respondent knows of the proceeding.

[5] A party owning property with valuable equity would not readily allow a foreclosure remedy. It would be a simple matter to request (or demand) a sale in order to protect the value represented by the equity of redemption. I can only take the respondent's default as an indication that it does not view the parking units as having a value equivalent to the amount of the lien being asserted by the applicant. On that basis, the choice of remedy makes very little, if any, practical difference.

[6] I choose to leave for a further case, to be argued with a respondent before the court, the fine legal question of whether, properly interpreted, subsection 85 (6) encompasses the right of foreclosure.

F. L. Myers, J.

Date: May 11, 2021