

BANK OF MONTREAL

Respondents

v.

Applicant

2380630 ONTARIO INC., et al

14-Nov-2018

Court File No.: CV-18-599726-00CL

Nov 14/18

F. Tayar for the ~~Respondent~~ Applicant

Counsel for the respondents was present when this motion was scheduled on September 21/18. PROCEEDING COMMENCED AT TORONTO. The Respondents have also failed to deliver the material contemplated by the order of Perry J. of that date.

Among other things, the Receiver makes an order declaring the purported lease between 2386174 Ontario Incorporated and Peterson & Inc. dated May 20, 2018 to be null and void and unenforceable. On the basis of the record, I conclude that the lease is void under s. 20 of the Fraudulent Conveyances Act, R.S.O. 1990, c. F. 29.

In this regard, the following considerations are relevant. First, the lease is between related parties and appears to be not only for inadequate consideration but for an unconscionable lease with the intention ~~that~~ or at least the result that it would impair the marketability of the land by the Receiver.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

NOTICE OF MOTION

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Now, the loan was entered into in May 2018 after the
several creditor ~~is~~ issued its demands for payments
and notices of intention to enforce security. Third, the
effect of the loan is to allow the respondents
to remain in occupation of the property notwithstanding
the insolvency of their business. Fourth, the existence of
the loan was concealed from the secured creditor until
the date of appointment of the Receiver. There are all
"badges of fraud" which are indicative of an
intention of the parties to the loan to defeat, hinder
delay or defraud the creditors of the respondents of
their lawful actions to enforce their claims. In
addition, it is noteworthy that the loan under the
loan has failed to pay any rent provided thereunder
since the date of ~~completion~~ the appointment of the
Receiver.

All of the parties on the reverse list have been
served and no objection received. Order to join
the form attached.

W. Don - L.J.