

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Prasad v. Ranga*,
2026 BCSC 1009

Date: 20260602
Docket: S243897
Registry: Vancouver

Between:

Michael Prasad

Plaintiff

And

Surinder Kumar Ranga and Kamla Devi Ranga

Defendants

Before: The Honourable Mr. Justice Milman

Reasons for Judgment

Counsel for the Plaintiff:

D.A. Solimano

Counsel for the Defendants:

B.K. Atwal,
appearing as Agent
(April 16, 2026)

K.S. Atwal
(May 15, 2026)

Place and Dates of Hearing:

Vancouver, B.C.
April 16 and May 15, 2026

Place and Date of Judgment:

Vancouver, B.C.
June 2, 2026

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I. Introduction

[1] Before the Court are two competing applications in this action in debt. Both arise from a default judgment that the plaintiff obtained against the defendants on July 31, 2024. On September 11, 2025, the plaintiff obtained an order quantifying his damages in the amount of \$251,934, plus interest and costs to be assessed. The judgment remains unpaid.

[2] In the first application, the defendants seek an order to set aside the default judgment.

[3] In the other application, the plaintiff seeks an order under ss. 94(5) and 96(1) of the *Court Order Enforcement Act*, R.S.B.C. 1996, c. 78, to confirm the report of the Registrar of December 2, 2025, so that certain real property belonging to the defendants, located at 1062 East 39th Avenue in Vancouver (the “Vancouver Property”), can be sold to satisfy the judgment.

[4] For the reasons that follow, I have concluded that the defendants’ application should be allowed and that of the plaintiff refused.

II. Procedural History

[5] The plaintiff commenced this action by way of notice of civil claim (“NOCC”) on June 12, 2024. The defendants were duly served with the NOCC that same day.

[6] The NOCC alleges that:

- a) on April 26, 2022, the defendants purchased a property located at 3847 Parker Street in Burnaby (the “Burnaby Property”), for the price of \$1,464,500, financed by two mortgages;
- b) the defendants were unable to pay the mortgages and so entered into a contract with the plaintiff pursuant to which the plaintiff would make the mortgage payments on their behalf, and, in exchange, he would be placed on title to the Burnaby Property and share in the rental revenue and any profits generated from its sale;

- c) pursuant to that agreement, the plaintiff paid a total of \$279,943 towards the two mortgages, of which only \$6,200 was repaid; and
- d) in breach of the alleged agreement, the defendants never transferred title to the plaintiff, never shared the rental revenue and never repaid the amounts owing.

[7] In his prayer for relief, the plaintiff sought a refund of the payments he claimed to have made on behalf of the defendants, a total of \$279,943. The causes of action advanced included breach of contract, or alternatively, unjust enrichment.

[8] In addition to the NOCC in this action, the plaintiff also filed, on the same day, a notice of claim commencing a small claims action in the Provincial Court (the “Small Claims Action”), in which he advanced some of the claims that he was already advancing in this action. Only one of the two defendants named in this action, Surinder Kumar Ranga (“Surinder”), was also named as a defendant in the Small Claims Action.

[9] The defendants did not respond to the NOCC in this action or the Notice of Claim in the Small Claims Action, although they were duly served with both.

[10] On July 31, 2024, the plaintiff obtained a default judgment against the defendants in this action, with damages and costs to be assessed. The default judgment was duly served on the defendants on August 24, 2024. In the meantime, on August 12, 2024, the plaintiff also obtained default judgment against Surinder in the Small Claims Action.

[11] Surinder brought an application to set aside the default judgment in the Small Claims Action, which came on for hearing in the Provincial Court on October 7, 2024. At that hearing, the defendants’ son, Mandeep Ranga (“Mandeep”), with whom they are estranged, appeared on the plaintiff’s behalf to oppose Surinder’s application. In particular, Mandeep sought, unsuccessfully, to have the hearing adjourned so that he could arrange a committee for Surinder, whom he described to the Provincial Court judge as suffering from dementia and incapable of

managing his affairs or instructing counsel. In the end, Mandeep's application to adjourn was dismissed and the default judgment was set aside.

[12] On November 5, 2024, the defendants filed an application in this court seeking to set aside the default judgment in this action, but they did not, at least not until recently, serve it on the plaintiff or otherwise notify the plaintiff of their intention to make such an application.

[13] In support of the application, the defendants filed, but did not serve, an affidavit of Surinder. In that affidavit, Surinder deposed that:

- a) he is a 67-year-old retired senior suffering from various health issues;
- b) neither he nor his wife, the other defendant, Kamla Devi Ranga ("Kamla"), are able to understand, read or write English;
- c) the Burnaby Property was formerly owned by Mandeep;
- d) while Mandeep owned the Burnaby Property, and before he became estranged from the defendants, he informed Surinder that he had entered into a verbal agreement with the plaintiff, pursuant to which:
 - i. the plaintiff would pay the carrying costs of the Burnaby Property (including property tax, appraisals, lawyers' fees, lender fees, mortgage payments etc.), in exchange for which the plaintiff would be permitted to live there without having to pay rent and/or to collect the monthly rent of \$6,000 that the Burnaby Property could generate; and
 - ii. the Burnaby Property would be sold at a future date to be agreed upon between the parties, with the profits shared between Mandeep and the plaintiff;
- e) the plaintiff made the payments called for by that agreement between May 2022 and April 2023, but, contrary to its terms, he stopped making mortgage payments in May 2023 and paid no property tax in 2023;

- f) on April 26, 2022, the defendants purchased the Burnaby Property out of foreclosure;
- g) on June 24, 2024, the defendants sought advice from a lawyer about this action and other claims brought against them in relation to the Burnaby Property and assumed that that lawyer would delay matters until they could come up with a retainer;
- h) on August 16, 2024, Surinder learned from his daughter about the default judgment in the Small Claims Action;
- i) on August 19, 2024, Surinder retained a different lawyer to defend him in the Small Claims Action;
- j) on September 5, 2024, that lawyer filed an application on Surinder's behalf to set aside the default judgment in the Small Claims Action, but then told Surinder that he could not continue to represent him;
- k) Surinder retained his current counsel on September 28, 2024;
- l) on October 6, 2024, one day prior to the hearing of Surinder's application to set aside the default judgment in the Small Claims Action, Surinder's lawyer advised the defendants that there was also a default judgment filed against them in this action, which was the first time they learned of this;
- m) when Surinder inquired of the first lawyer what had happened, Surinder was told that that lawyer was no longer acting for them because they had not paid his retainer; and
- n) Surinder was taking steps to get the default judgment in this action set aside.

[14] Having obtained a default judgment in this action on July 31, 2024 and served it on the defendants on August 24, 2024, the plaintiff took no further steps in this action (other than filing a certificate of pending litigation ["CPL"] against the title to

the Vancouver Property on January 6, 2025) until he filed an application, one year later on August 22, 2025, seeking to quantify his damages.

[15] On September 11, 2025, the plaintiff obtained an order in this action quantifying those damages at \$251,934, plus interest and costs to be assessed. On the following day, September 12, 2025, the plaintiff obtained a certificate of judgment in that amount, which he then registered on title to the Vancouver Property. On September 22, 2025, the plaintiff obtained a garnishing order against the defendants. Pursuant to that order, a total of \$4,504.43 had been paid into court as of November 10, 2025.

[16] On October 31, 2025, the plaintiff obtained an order directing a registrar's reference to determine if the Vancouver Property should be sold to satisfy the default judgment. The Registrar issued a report on December 2, 2025, recommending that the Vancouver Property be sold.

[17] On December 3, 2025, Surinder brought an application in the Provincial Court seeking an order to dismiss the Small Claims Action on the basis that the plaintiff had already obtained a default judgment in this action on the same claim. The application came on for hearing before the small claims judge on December 15, 2025, at which time the small claims judge agreed with Surinder and dismissed the Small Claims Action on that basis. The plaintiff, this time appearing in person on his own behalf, sought to adjourn the hearing but was unsuccessful.

[18] The plaintiff filed the application now before the Court on February 19, 2026.

[19] On April 7, 2026, the defendants filed the affidavit of Kamla in support of their application to set aside the default judgment in this action. In that affidavit, Kamla deposed that:

- a) Surinder is 69 and has various health problems;
- b) she is 71 and suffers from heart ailments which have necessitated heart surgery on three occasions, most recently in February 2025;

- c) the defendants are unable to read or write English and have difficulty understanding legal documents in English;
- d) the defendants purchased the Vancouver Property in 1986 and have been residing there ever since;
- e) the defendants have three children, of whom Mandeep is the oldest;
- f) the other two children have chosen not to assist them with their legal problems;
- g) in 2014, the defendants purchased a property adjacent to the Vancouver Property, with an address of 1072 East 39th Avenue in Vancouver (the “Adjacent Property”), intending to build a home there for Mandeep so that he could look after them in their old age;
- h) in 2016, Mandeep began residing in the Adjacent Property with his then wife, Violeta Perez;
- i) in 2016, Mandeep and Ms. Perez asked the defendants for financial assistance to purchase and develop the Burnaby Property, and the defendants agreed to lend them \$236,680.09 for that purpose, on the condition that the loan would be repaid when the Burnaby Property was sold;
- j) on June 18, 2018, the defendants agreed to transfer title to the Adjacent Property to Mandeep and Ms. Perez so that they could borrow money on its equity, in exchange for which the defendants received a right to repurchase the Adjacent Property for \$1,371,899.60;
- k) in 2019, the defendants’ health had deteriorated to the point that they could no longer manage their affairs, so they gave Mandeep a power of attorney giving him access to their bank accounts;
- l) in June 2020, Mandeep and Ms. Perez separated;

- m) following the separation, Ms. Perez moved out of the Adjacent Property, but Mandeep continued to reside there until February 2026;
- n) in August 2020, Ms. Perez commenced a family law action against Mandeep;
- o) in October 2020, Mandeep asked the defendants to bring an action against him and Ms. Perez seeking specific performance of the agreement allowing the defendants to repurchase the Adjacent Property, which they did (Vancouver Registry Action No. S2010673 – the “Parents’ Action”);
- p) in June 2021, Mandeep asked the defendants to agree to receive a transfer of title to the Adjacent Property into their names to avoid a foreclosure;
- q) the defendants agreed to this, provided that Mandeep would continue to pay the carrying costs of the Adjacent Property;
- r) the transfer occurred by order of this court in the Parents’ Action made on June 30, 2021;
- s) in April 2022, Mandeep asked the defendants to agree to receive a transfer of title to the Burnaby Property into their names to avoid a foreclosure;
- t) the defendants agreed to this, provided that Mandeep would continue to pay the carrying costs of the Burnaby Property;
- u) the transfer occurred by order of this court in the Parents’ Action made on April 8, 2022;
- v) around the time of that transfer, Mandeep advised the defendants of the agreement he had made with the plaintiff in relation to the Burnaby Property, the terms of which were as described in Surinder’s affidavit;

- w) in January 2024, Mandeep advised the defendants that the plaintiff had ceased making payments as promised and that, as a result, the Burnaby Property had gone into foreclosure;
- x) at the same time, Mandeep asked the defendants to borrow money off their equity in the Vancouver Property in order to pay off the debt associated with the Burnaby Property, but they refused to do so;
- y) this refusal led to a deterioration in the defendants' relationship with Mandeep and he began threatening to sue them;
- z) the defendants then cancelled the power of attorney they had granted Mandeep;
- aa) in May 2023, the plaintiff stopped making payments on the Burnaby Property as he had promised, which led to foreclosure proceedings;
- bb) the plaintiff ultimately purchased the Burnaby Property in the foreclosure, which sale was approved by order of this court dated January 29, 2025;
- cc) in October 2024, Kamla was again admitted to hospital for surgery, during which she suffered a heart failure and was at risk of dying;
- dd) Mandeep went to see Kamla in the hospital in November 2024, and they had a conversation during which:
 - i. Mandeep asked what he could do for her;
 - ii. Kamla responded that she wanted Mandeep to spare Surinder from the legal problems that Mandeep had been causing them;
 - iii. Mandeep then told her that it was Mandeep, rather than the plaintiff, who was behind this action and the Small Claims Action and that Mandeep needed to use the plaintiff as an intermediary because

Mandeep had been declared bankrupt and was therefore unable to obtain a judgment for himself;

- iv. Mandeep had picked up the papers that had been served on them so they would be unaware of the steps being taken against them in the proceedings; and
- v. Mandeep promised that he would now halt all of the litigation initiated against them by the plaintiff on his behalf;

ee) relying on that assurance, the defendants did not pursue their application to set aside the default judgment in this action;

ff) Kamla was discharged from hospital on November 21, 2024, but was hospitalised again from February 11 to March 4, 2025, and then again for two weeks in April 2025;

gg) on August 28, 2025, the Adjacent Property was sold in foreclosure;

hh) before that occurred, Mandeep asked the defendants again to borrow funds off the Vancouver Property so that he could use those funds to pay off the debt associated with the Adjacent Property, but they refused;

ii) in response to that refusal, Mandeep threatened to reinstate this action;

jj) in March 2026, the defendants instructed their lawyer to proceed with their application to set aside the default judgment;

kk) on March 20, 2026, Mandeep sent an email to the defendants' lawyer and the plaintiff's lawyer (Mr. Solimano) in which he:

- i. stated that he was writing on behalf of Surinder to advise that Surinder has been diagnosed with dementia and lacks the capacity to make informed decisions or instruct counsel; and

ii. on that basis, requested that the lawyers arrange to have Surinder's capacity assessed and in the meantime that they refrain from taking instructions from him;

ll) in response to that email, Mr. Solimano sent a text message to Mandeep telling him that, in light of his March 20, 2026 email, he could no longer continue to act for both Mandeep and the plaintiff, but from then on would be acting for the plaintiff exclusively; and

mm) on March 23, 2026, Mandeep emailed a screenshot of that text message to the defendants' lawyer.

[20] Having been served with the application to set aside the default judgment and the defendants' two affidavits sworn in support, the plaintiff adduced his own supplemental affidavit in response, which he caused to be filed with the court on April 13, 2026. In that affidavit, he deposed that:

- a) he first learned of the defendants' application to set aside the default judgment in March 2026;
- b) until then, he had proceeded on the basis that the defendants were not opposing the steps he was taking to enforce the default judgment;
- c) he ensured that the defendants were served at each stage of the process;
- d) there are many charges on the defendants' properties;
- e) one of those properties was recently sold by court order to satisfy the defendants' debts;
- f) the defendants successfully applied to have the Small Claims Action dismissed on the basis that the plaintiff had already obtained judgment on the same claim in this action;

- g) the defendants chose to pursue setting aside the default judgment in the Small Claims Action but not in this action;
- h) the plaintiff never told the defendants, either directly or through Mandeep, that he was pausing or would not pursue enforcement of the default judgment in this action; and
- i) the time and expense that he has devoted to enforcing the default judgment have been significant and he therefore will be prejudiced if it is now set aside.

[21] This matter first came on for hearing before me in chambers soon after that, on April 16, 2026. There was insufficient time available that day for the application to be heard in its entirety, so a supplemental hearing was arranged before me to allow the parties to complete their submissions.

[22] In the meantime, on April 23, 2026, the plaintiff caused the defendants to be served with an application he was making to be added as a party to Vancouver Registry Action No. H240870 (the "Foreclosure Proceeding"). In the Foreclosure Proceeding, the foreclosing mortgagee had successfully applied to have the Adjacent Property sold to satisfy its mortgage debt. After that debt was paid from the proceeds of sale, the remaining sum of \$327,813.55 was paid into court. The plaintiff is seeking to be added as a party in the Foreclosure Proceeding so that those remaining funds in court can be used to pay off his judgment in this action, but there are other creditors, ranking ahead of the plaintiff, who are also seeking to have their debts paid from those funds.

[23] The parties' competing applications in the Foreclosure Proceeding came on for hearing on April 21, 2026, but the matter was adjourned at the request of Mandeep, who, like the defendants, is also one of the respondents in the Foreclosure Proceeding. Mandeep advised the court at that time that he was in the process of retaining Mr. Solimano to address the matter on his behalf and needed more time to respond.

III. Legal Framework

[24] The plaintiff is entitled to the relief he seeks in his application only if the defendants are unsuccessful in their application for an order setting aside the default judgment.

[25] The test to be applied in deciding whether the default judgment should be set aside was recently reiterated by Gomery J.A., writing for the Court of Appeal in *1163499 B.C. Ltd. v. Yao*, 2025 BCCA 443. In that case, the Court of Appeal held, contrary to some earlier authorities suggesting otherwise, that the same test applies regardless of whether, as here, the plaintiff has since obtained an order quantifying the judgment.

[26] The elements of that test, known as the *Miracle Feeds* test, were conveniently summarized by Brongers J. in *Mrsic v. 1106468 B.C. Ltd.*, 2022 BCSC 1149 at para. 15. They include the following considerations:

- a) did the defendant willfully or deliberately fail to respond to the claim;
- b) did the defendant apply to set aside the default judgment as soon as reasonably possible after hearing of it; and
- c) does the defendant have a meritorious defence, or at least one worthy of investigation?

[27] The failure to address any one element of the test is not necessarily fatal and there may be other factors present. Even if not all factors are present, the court can still set aside a default judgment if failing to do so would lead to a miscarriage of justice: *Mrsic* at paras. 16–18.

IV. Discussion

[28] The defendants contend, in effect, that allowing the default judgment and the resulting damages order to stand would amount to a miscarriage of justice because they were misled by Mandeep's promise that he would arrange for this action to be halted after Kamla was hospitalised and became gravely ill in the fall of 2024. They

say that they have always intended to defend this action, if it proceeds. Once it became clear in the spring of 2026 (presumably by way of service of the plaintiff's competing application to cause the Vancouver Property to be sold to satisfy the default judgment) that the plaintiff's efforts to enforce the default judgment were in fact proceeding in quick succession, they moved forward promptly with their previously filed application to set it aside.

[29] In response, the plaintiff denies ever having promised to halt his enforcement measures in this action. He contends that the defendants have been served at every stage and have simply chosen not to respond. In particular, he says, they filed but did not serve their application to set aside the default judgment in this action and chose instead to proceed solely on Surinder's application to set aside the default judgment in the Small Claims Action. Indeed, he says, Surinder was ultimately successful in having the Small Claims Action dismissed on the basis that the plaintiff had already obtained a default judgment on the same claim in this court. It is inconsistent, he says, for the defendants to argue now that, having succeeded in getting the Small Claims Action dismissed on that basis, the default judgment in this court should be set aside. Further, he says that he will suffer prejudice if the defendants were to succeed on their application because he has incurred litigation costs that could have been avoided had he known that the defendants intended to proceed with an application of that kind.

[30] I have a number of difficulties with the plaintiff's arguments.

[31] First, although the plaintiff denies having told the defendants, directly or indirectly through Mandeep, that he would pause this action, that is only a partial answer to Kamla's evidence. In particular, there is no evidence before me to contradict Kamla's assertions that:

- a) Mandeep told her that it was he, rather than the plaintiff, who is controlling this action, and for whose benefit it is being advanced; and
- b) Mandeep told Kamla that he would arrange for this action to be halted.

[32] This is particularly troubling because I received no evidence from Mandeep himself in response to the defendants' assertions about him. There are several grounds for drawing an adverse inference against the plaintiff for having failed to adduce such evidence from Mandeep. It is beyond question that Mandeep is closely aligned with the plaintiff against the defendants, even though they are his parents.

[33] In his first affidavit made August 21, 2025 in support of his application to quantify his damages in this action, the plaintiff deposed that Mandeep is his "best friend" and that they have known each other for about 20 years. Further, Mandeep appeared in Provincial Court on October 7, 2024, on the plaintiff's behalf, seeking to adjourn Surinder's application to set aside the default judgment in the Small Claims Action so that Surinder's capacity to instruct counsel could be assessed. The evidence reveals that both the plaintiff and Mandeep were represented by the same lawyer, at least until the exchange of emails and text messages in March 2026, and perhaps as recently as April 21, 2026.

[34] In any event, the plaintiff's assertion that he never agreed to pause his enforcement steps is inconsistent with the course that this litigation has actually taken. The plaintiff has provided no explanation for why, if he was intent on proceeding expeditiously to realise on his default judgment, he took no steps to do so in the year that elapsed after he obtained it, other than causing a CPL to be filed on title to the Vancouver Property nearly six months later, in January 2025.

[35] The only explanation I have been given to account for that delay is the one provided by Kamla, namely, that Mandeep arranged to have the litigation halted while she was ill and then changed his mind when the defendants refused to accede to his request to allow him to borrow off of their equity in the Vancouver Property.

[36] In summary, I accept Kamla's evidence as to the reason for the defendants' delay in advancing their application. In particular, I accept that the defendants are elderly, infirm and do not communicate in English well. I accept that they were, at least initially, confused by the service upon them of overlapping claims in different courts. Although I also accept that they were aware by the fall of 2024 that the

plaintiff had obtained a default judgment against them in this action, I am satisfied that they did not advance the application to set it aside, after it was filed, until the spring of 2026 because Mandeep had led them to believe that doing so would not be necessary. Once it became apparent to them that they could no longer rely on Mandeep's assurances in that regard, they acted promptly to have the application heard.

[37] I also disagree with the plaintiff's assertion that it is inconsistent for the defendants to seek to set aside the default judgment in this action when Surinder relied on its existence to obtain an order dismissing the Small Claims Action. Although Surinder did indeed obtain that relief on that basis, his case for dismissal did not depend on the fact that judgment had already been obtained in this action. The dismissal was justified because the plaintiff was actively pursuing the same claim, and others, in this action, regardless of the stage that this action had reached.

[38] Finally, I am also satisfied that the defendants have articulated a potentially meritorious defence to the plaintiff's claim, a defence they should be permitted to raise in the interests of justice.

[39] I have therefore concluded that allowing the damages order and the default judgment to remain in place would amount to a miscarriage of justice, which means that they should both be set aside.

V. Summary and Disposition

[40] I am granting the defendants' application and setting aside the default judgment and the damages order. I am dismissing the plaintiff's application.

[41] As the successful parties, the defendants are entitled to their costs in the cause.

"Milman J."