

SUPERIOR COURT OF JUSTICE – ONTARIO

491 Steeles Avenue East, Milton ON L9T 1Y6

RE: Perano Residences Ltd., applicant

AND:

Gokulesh Shah And Ameer Gokulesh Shah, respondents

BEFORE: Justice Mills

COUNSEL: Maureen Whelton & Arlene Campbell, for the applicant
Email: mwhelton@whlawyers.ca & acampbell@whlawyers.ca

Self-represented respondent, Gokulesh Shah
Email: shah_gass@yahoo.com

Gokulesh Shah appeared on behalf of the co-respondent-wife,
Ameer Gokulesh Shah

HEARD: July 3, 2024, by video conference

ENDORSEMENT

- [1] This application was brought on an urgent basis to remove a caution registered on title to the property located at 509 Dundas Street West (the "Property"). There is a real estate transaction scheduled to close on July 30, 2024.
- [2] The respondents have filed no responding materials, but Mr. Shah attended the hearing to express his views on this matter. The caution was registered on May 29, 2024, without notice to the applicant. To date, the respondents have taken no steps to commence legal proceeding or to seek a Certificate of Pending Litigation.
- [3] Mr. Shah now advises that he wants to close the transaction and that he is ready, willing, and able to do so today. The Agreement of Purchase and Sale was terminated by the applicant on January 26, 2024, when the respondents failed to

close the transaction as scheduled and when they refused to accept the offers by the applicant to extend the date for closing. Mr. Shah also indicated he wishes to bring a Counterapplication for the damages he claims to have suffered.

- [4] The Agreement of Purchase and Sale includes a provision at paragraph 20 where the respondents specifically agreed not to register a caution on title to the Property and if they did so, it would constitute an act of default. The provision also states the respondents appoint the applicant as attorney for the purposes of removing the caution from title. Similar clauses have been the subject of litigation where they were held to be valid and fully enforceable.
- [5] The respondents had no legal right to register the caution. Order shall issue directing its removal from title.
- [6] If the respondents intend to assert a claim for damages, they shall file a Notice of Appearance and deliver formal Notice of the Counterapplication within 30 days from today.
- [7] Costs of today are reserved to the hearing of the application.


J. E. Mills J.