

CITATION: Ontario Securities Commission v. Money Gate Mortgage Investment Corporation,
2020 ONSC 783
COURT FILE NO.: CV-18-00608086-00CL
DATE: 20200205

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

APPLICATION UNDER Sections 126 and 129 of the Securities Act, R.S.O. 1990, C.S.5, as amended

BETWEEN:	)	
	)	
Ontario Securities Commission	)	
	)	
Applicant	)	
	)	
– and –	)	
	)	
	)	
Money Gate Mortgage Investment Corporation	)	<i>Maya Poliak and Saneea Tanvir, for the Receiver, Grant Thornton Limited</i>
	)	
Respondent	)	
	)	
	)	<i>Eli Karp, for the non-party 2496050 Ontario Corp.</i>
	)	
	)	
	)	HEARD: January 30, 2020

C. GILMORE, J.

REASONS ON MOTION

OVERVIEW

[1] Grant Thornton Limited ("GTL") is the Court-appointed receiver of the property, assets and undertakings of Money Gate Mortgage Investment Corporation ("MGMIC" and "the MGMIC Receiver").

[2] Pursuant to a commitment letter dated May 25, 2017 between MGMIC and 2546456 Ontario Inc. ("254"), MGMIC agreed to loan \$611,000 to 254 to be secured by a second mortgage over property owned by 254 and municipally known as 558 Dovercourt Road, Toronto ("Dovercourt").

[3] On July 4, 2018 Ira Smith Trustee & Receiver Inc. was appointed as receiver over Dovercourt ("the Dovercourt Receiver"). In December 2018 the court approved the sale of Dovercourt. A distribution of sale proceeds was made to the first mortgagee and to the MGMIC Receiver in trust on behalf of MGMIC as second mortgagee.

[4] The MGMIC Receiver has received \$556,078.73 from the Dovercourt Receiver by way of sale proceeds from Dovercourt. The funds are being held in trust pending a court order for distribution. No additional funds will be received. The amount outstanding on the MGMIC mortgage exceeds the available proceeds which will result in a shortfall to investors.

[5] In this motion, the MGMIC Receiver seeks a declaration that the MGMIC mortgage is valid and enforceable such that there should be a distribution of funds to the MGMIC Receiver. If the mortgage is not found to be enforceable, the MGMIC Receiver seeks a declaration that MGMIC is entitled to an equitable mortgage enforceable against the Dovercourt funds.

[6] The non-party, 2496050 Ontario Corp. ("A13MG"), seeks an order lifting the stay of litigation against the MGMIC Receiver and directing that their Fraud Action (Court File no. CV-19-00613363-0000) proceed to trial. In the alternative it seeks a declaration that the MGMIC mortgage was invalidly placed against Dovercourt.

[7] A13MG takes the position that the MGMIC Receiver has "waded into the fray" and is seeking to keep for itself funds that are in dispute with A13MG.

BACKGROUND FACTS

[8] MGMIC carried on business as a mortgage investment corporation that lent money raised from individual investors to borrowers with loans secured by residential and commercial mortgages.

[9] MGMIC advanced \$611,00 as a second mortgage loan to 254. Ben Katebian ("Ben") and Payam Katebian ("Payam", and collectively "the Katebians"), were each a director and officer of MGMIC and its directing mind.

[10] MGMIC had raised over \$11 million from 155 investors for the purpose of mortgage investments. The Dovercourt mortgage was one of the investments in MGMIC's portfolio when the MGMIC Receiver was appointed on November 6, 2018.

[11] 254 was incorporated on November 16, 2016. Payam was originally its sole shareholder. On May 24, 2017, A13MG acquired 50% of 254's shares from Payam. The shares were acquired

by A13MG in trust on behalf of Curah Capital Corporation ("Curah") as Curah's funds were used for the share purchase.

[12] Jonathan Ricci ("Ricci") is the sole officer and director of A13MG. Glenn Estrabillo ("Glenn") and Dominic Kawa ("Kawa") are the directors of Curah. Sai Mohammed ("Sai") and James Destephanis ("James") are consultants to Curah.

[13] Prior to A13MG's acquisition of shares in 254, Payam executed a shareholder resolution dated May 15, 2017 ("the Resolution") which amended 254's articles to restrict its ability to borrow money and encumber Dovercourt without the written consent of all shareholders.

[14] On May 29, 2017, MGMIC transferred \$611,000 from its bank account to the bank account for 254's solicitors. On June 5, 2017 a second mortgage in the principal amount of \$611,000 was registered on title to Dovercourt in favour of MGMIC. It is unclear what happened to the MGMIC mortgage funds after they went into 254's bank account. It appears that some funds were transferred to 2399029 Ontario Inc. ("239"), a corporation allegedly owned by the Katebians.

THE POSITIONS OF THE PARTIES

The MGMIC Receiver

[15] The MGMIC Receiver urges the court to find that the Dovercourt mortgage was valid. If so, the funds held by the MGMIC Receiver, will be distributed to MGMIC's investors. If the mortgage is found to be invalid, the funds will be split between Payam and A13MC. The OSC has put the MGMIC Receiver on notice that any funds payable to Payam may be garnished or frozen based on investigations by the OSC in which Payam is involved. The OSC has made allegations related to self-dealing and misuse of funds by 239, a company into which funds from the Dovercourt mortgage may have been paid.

[16] There is no dispute that \$611,000 of MGMIC investor money went into 254's bank account in May 2017 for the Dovercourt mortgage. It is also not disputed that 254 granted a mortgage as it was authorized to do by its Director who also gave a personal guarantee. On its face, the mortgage is valid unless there is fraud or some other issue that would invalidate it.

[17] In December 2018 a motion was brought to distribute the proceeds from the sale of Dovercourt. Notice of the motion was given to A13MG. It was determined that no funds could be distributed until further information was received with respect to A13MG's claim to 50% of the mortgage proceeds.

[18] A13MC takes the position that the Dovercourt mortgage is invalid because they did not consent to it as required by the Resolution. The MGMIC Receiver responds that the Resolution did not require a specific form of written consent and that emails exchange between Ricci, Payam, Glenn, James and Ben between May 10 and June 1, 2017 make it clear that the shares were purchased by A13MC on May 25, 2017 and the mortgage registered on June 5, 2017 with everyone's knowledge and approval.

[19] Mr. Ricci was asked about the emails during his cross-examination on December 23, 2019. His evidence was that A13MG did authorize the mortgage but with conditions. When asked about the conditions, Ricci explained that \$375,000 was to come back to A13MC (Curah's funds) which was to be used for another investment project. The MGMIC Receiver submits that if funds were instead paid into 239 and now cannot be located, A13MG's may have a claim against Payam, but that does not invalidate the authorization or the Dovercourt mortgage.

[20] A13MG's counsel alleged fraud but counsel for MGMIC points out that if there was fraud, it was odd that there was never an accusation by A13MC against Payam nor was any written notice from A13MG to MGMIC or Payam that no consent had been obtained and the mortgage should be immediately discharged. In fact, in August 2017, approximately a month after allegedly finding out about it for the first time, there were a series of emails between Ben, Payam, James, Glenn and Ricci in which there was a discussion about assigning the second mortgage or bringing in more investors for a third mortgage on Dovercourt.

[21] The MGMIC Receiver questions why there would be discussions about a third mortgage or an assignment of the second mortgage if Ricci was taking the position that its registration had not been authorized. For example, why would Ricci depose in his affidavit sworn December 3, 2019 that he did not approve of the MGMIC loan and then give evidence at this cross-examination that he definitely understood that there would be a mortgage registered, but with conditions? The MGMIC Receiver argues that in fact, the mortgage was authorized and A13MG continued to do business with Ben and Payam after that.

[22] Further, it makes no sense that A13MG would in effect be reimbursed for the money they paid for the shares while still retaining both the shares and the interest in Dovercourt.

[23] Even if there was no compliance with the Resolution, that would not invalidate the mortgage. The exchange of emails between representatives of A13MG and Payam to "immediately apply for a second mortgage" constitute such an approval.

[24] The MGMIC Receiver also relies on section 17(3) and section 19 of the *Ontario Business Corporations Act*, R.S.O. 1990, c. B.16 ("OBCA"). Those sections prohibit a company from relying on internal procedural failures to nullify a transaction with a third party, unless the third party is in a relationship with the corporation such that the failure was known or should have been known.

[25] The MGMIC Receiver submits that MGMIC was only a conduit for investor's money and would have no information about whether the mortgage was properly authorized.

The Position of the Non-Party 2496050 (A13MG)

[26] On May 16, 2017, A13MG purchased 50% of the shares in 254 for \$375,000. A term of the deal was that their funds would be repaid immediately with a loan financed by MGMIC. The funds for the share purchase were paid to 2399029 Ontario Inc. ("239"), a corporation owned by Ben Katebian.

[27] To mitigate risk for A13MG, Payam and A13MG passed a Unanimous Shareholder's Resolution that restricted the ability of 254 to borrow money or give a mortgage (amongst other restrictions) without the signature of both shareholders. The Resolution was signed by Payam on May 15, 2017 and sent to Ricci on May 23, 2017.

[28] A13MG submits that Payam and MGMIC devised a scheme whereby, notwithstanding the wording of the Resolution, MGMIC advanced \$611,000 to 254 in exchange for a mortgage on Dovercourt and 254 then directed the funds to a corporation owned by Ben (likely 239 or another corporation over which the Katebians had control).

[29] A13MG alleges that Ben and Payam conspired to put Dovercourt into receivership without notifying A13MG despite its 50% shareholding interest in 254. In November 2018, the Ontario Securities Commission ("OSC") applied for an order appointing the MGMIC Receiver on grounds that included malfeasance on the part of Payam including self-dealing and acting in a conflict of interest.

[30] A13MG's position is that the Katebians perpetrated a fraud in which they took 100% of the loan advanced to MGMIC without A13MG's knowledge or authorization. A13MG submits that the MGMIC Receiver is now attempting to enforce the security which MGMIC knowingly obtained by fraud. The MGMIC Receiver has never filed any evidence denying the fraud alleged by A13MG. A13MG points out that the MGMIC Receiver does not dispute that A13MG is a 50% owner of 254 nor that A13MG did not receive any of the funds from the MGMIC mortgage.

[31] In early 2019 A13MG commenced a Fraud Action seeking to set aside the MGMIC mortgage and leave to lift the stay of proceedings against MGMIC ordered by the Receivership Appointment Order. The MGMIC Receiver submits that this Action is a nullity as no proceeding can be brought against the Receiver without leave. No such leave has ever been sought by A13MG. The MGMIC Receiver was surprised to read in A13MG's factum that they intend to proceed with that Action despite not obtaining leave.

[32] A13MG submits that while the MGMIC Receiver purports to bring a motion for advice and directions, it is really seeking summary judgment in the Fraud Action commenced by A13MG. If the funds are distributed to MGMIC's investors, the Fraud Action will be at an end. Further, the MGMIC Receiver has never filed a Statement of Defence in the Fraud Action. The MGMIC Receiver responds that it did not believe a Statement of Defence was required since the action is a nullity without the required leave.

[33] In order for the MGMIC Receiver to obtain summary judgment, it must serve and file a Statement of Defence in the Fraud Action, file an affidavit from someone with knowledge of the events, and produce that person for examination. The MGMIC Receiver has taken none of those steps. Instead, it chooses to rely on emails and innuendo that somehow A13MG consented to the fraud.

THE ISSUES

Is This Motion for Directions Really a Motion for Partial Summary Judgment? If so, Does the Moving Party have Sufficient Evidence to Succeed?

[34] The MGMIC Receiver points out that A13MG did not obtain leave before commencing its action against 254 or GTL. As such, the MGMIC Receiver wrote to counsel for A13MG stating its position that A13MG was in contempt of the orders of Justice Dunphy dated July 30, 2018 and Justice Hailey dated November 6, 2018 which do not permit proceedings against 254 without the Receiver's consent or leave of the court. The MGMIC Receiver took the position that it would not be responding to the action until leave was obtained. As no leave was obtained, the action is a nullity as against GTL and 254.

[35] In January 2019, Justice McEwen made an order in the Dovercourt Receivership proceeding that funds from the sale of Dovercourt were to be distributed to the MGMIC Receiver and held in trust pending a distribution order. All parties who asserted a claim in the proceeds were advised of a scheduling appointment on October 2, 2019 to schedule the within motion. On that date, A13MG attended the chambers appointment and was aware of the endorsement of Justice Penny that all parties' claims to the Dovercourt Proceeds would be adjudicated on January 30, 2020. The MGMIC Receiver submits that it was not until it received A13MG's factum on January 28, 2020 that it became aware of A13MG's position that this motion was not the proper forum to deal with the entitlement to the Dovercourt funds. The MGMIC Receiver argues it is no longer open to A13MG to take that position.

[36] I agree with the MGMIC Receiver that A13MG should have made it clear at the October 2, 2019 scheduling appointment that it was objecting to the form of the motion. The MGMIC Receiver does not dispute that this matter is being heard in a summary fashion but submits that the evidence it has provided is sufficient to meet the required test.

[37] The MGMIC Receiver relies on the following evidence in this motion:

- (a) The loan and security documents related to the MGMIC mortgage which are not in dispute.
- (b) Email evidence provided by A13MG in its responding record including the cross-examination of Mr. Ricci.
- (c) Transcripts of Payam in a separate proceeding involving the same parties. The MGMIC Receiver does not rely on the veracity of the evidence in the examination but only relies on it as providing information as to the relationship between Payam and A13MG.

[38] The specifics of the evidence provided by MGMIC are as follows:

- (a) Mr. Ricci's evidence. Mr. Ricci's affidavit sworn December 5, 2019 clearly says that that he did not consent to the MGMIC mortgage either before or after it was registered (para 10). In his cross-examination on December 23, 2019 Mr. Ricci deposed that "he definitely understood that there would be a second mortgage placed on the property with conditions." (Question 61). When asked about the conditions he stated, "My recollection is that there was funds that were to be come back to 249 which were Curah's funds, and there there'd be another project to be invested in -afterwards" (Question 62). In A13MG's factum, it states that "249 proceeded with the Dovercourt share purchase on the condition that their funds would be repaid immediately with a loan financed by MGMIC" (para 22).
- (b) Email evidence in the A13MG Responding Record. Emails exchanged between May 10, 2017 and June 1, 2017 between Payam, Glenn, Ben, James and Ricci clearly reference a second mortgage on Dovercourt. There are references to asking for details and getting confirmation of the mortgage.
- (c) Transcripts from the examination of Payam in a separate proceeding. Payam gave evidence about money from MGMIC mortgages being deposited into the account of 239, an account controlled by the shareholders and directors of MGMIC.

[39] A13MG objects to the form of this motion on several grounds as follows:

- (a) It does not fit within the limited scope of the MGMIC Receiver's Order as it is more than simply a request to the court for advice and directions.
- (b) The evidence on the motion fails to reach the "full appreciation test" and only allows for knowledge of the case as opposed to a full appreciation of the evidence and the issues. In this case, the court is unable to accurately weigh and draw inferences from the evidence without the benefit of a trial and its first-hand fact-finding process.
- (c) The case involves multiple findings of fact on the basis of conflicting evidence and credibility disputes which can only be determined through the trial process and not an affidavit record.
- (d) The MGMIC Receiver is asking for partial summary judgment which is a rare procedure and reserved only for cases where the issues in dispute can be easily bifurcated from those in the main action.
- (e) The evidence filed by the MGMIC Receiver is hearsay which includes its own third report and portions of Payam's transcript, neither of which should be admissible on a motion for summary judgment.
- (f) The MGMIC Receiver has not put its best foot forward as it has not denied the fraud or put forward an alternative version of Ricci's evidence. In order to do so,

they should have called Payam or Ben as witnesses. They did not, and as such, an adverse inference should be made that Ben and Payam would have confirmed Ricci's evidence.

- (g) The MGMIC Receiver has not met its burden to obtain judgment in the Fraud Action which raises the same issues being dealt with on this motion as against 254 and Payam. Those issues will have to be canvassed again in the Fraud Action.

Analysis

[40] To succeed on a summary judgment motion, the moving party must establish that there is "no genuine issue for trial." The court may determine that the case is suitable for summary judgment where the record on the motion allows the judge to make the necessary findings of fact on a balance of probabilities, allows the judge to apply the law to the facts, and, is a proportionate, expeditious and less expensive means of achieving a fair result (see *Hyrniak v. Mauldin*, 2014 SCC 7).

[41] I do not disagree with A13MG that this motion, while proceeding as a motion for directions, will result in a form of summary judgment if granted. While this means the threshold of evidence required for a determination is a higher one, it is this court's view that there is sufficient evidence to do exactly what the MGMIC Receiver requests; deal with a priority dispute in relation to funds which it holds by court order.

[42] A13MG relies on *Urbancorp Cumberland 2 GP Inc. (Re)*, 2017 ONSC 7649. In that case, Myers, J., dismissed a motion by the Monitor for advice and directions with respect to payments in kind by way of certain condominium units. The Monitor argued that using the condominium units to satisfy the debts of affiliates of the debtor's trade creditors should result in a monetary award against trade creditors who received the units.

[43] In the course of dismissing the motion, Myers, J. commented that the Monitor was not really seeking advice and directions, it sought a judgment for damages against the creditor who had received the condominium units as payment in kind. The court found that the order appointing the Monitor gave it no such authority.

[44] In the case at bar, there is no dispute that the MGMIC Receiver has the authority to bring this motion. It was brought on notice to all interested parties and with their input for scheduling purposes. The MGMIC Receiver is not seeking damages or frankly anything out of the ordinary except to comply with the court order that requires them to bring a distribution motion.

[45] I reject the contention that this motion must be delayed so that A13MG can proceed with its Fraud Action. They have taken no steps in that litigation for over a year. More importantly, they have failed to bring a motion for leave, as required by the Receivership Order. Given those circumstances, there is no reason not to treat that action as a nullity as suggested by the MGMIC Receiver.

[46] While A13MG complains that the MGMIC Receiver has not put its best foot forward, A13MG has not called Payam, Glenn or Ben as witnesses. It provided a four-page affidavit from Ricci. Further, there is nothing in the Ricci affidavit that mentions a fraud or conspiracy. While A13MG infers that the MGMIC Receiver is somehow participating in the fraud by seeking to distribute money to MGMIC's investors, there is no actual evidence of fraud. MGMIC did not deal with any allegations of fraud in its materials because it only learned of A13MG's allegations of fraud in its January 28, 2020 factum. In any event, even if Payam stole all of the money that went into 254's account for the Dovercourt mortgage, that is a matter between A13MG and Payam and not the MGMIC Receiver.

[47] I do not find that there are credibility disputes which would prevent this motion from proceeding. There may certainly be credibility issues with respect to Payam and Ben given the findings of the OSC against them. However, those findings do not affect this proceeding, as Ben and Payam have not asserted a claim for any of the funds held by the MGMIC, and, as stated above, if Ben and Payam (in concert with others) took steps to defraud A13MG, that cannot be resolved in the context of this proceeding.

[48] As for the allegations about the deficiency of MGMIC's materials, I find that there is no reason why the court cannot rely on Ricci's cross-examination and the emails produced by way of undertakings from that cross-examination. A13MG complains that this court cannot rely on the MGMIC Receiver's "interpretation" of the emails. I find that I do not need to do so. Statements in the emails such as "we will proceed with the Dovercourt transaction... We immediately apply a second mortgage," and "2nd Mortgage on Dovercourt in favour of MGMIC, using current MGMIC's capital." could not be clearer on their face.

[49] With respect to the excerpt of Payam's cross-examination being hearsay on this motion, I agree. However, the MGMIC Receiver is not relying on those excerpts for their truth, only for context in terms of Payam and Ricci's involvement with 254 and 239. That information provides only narrative and not evidence upon which the court can determine the motion.

[50] In summary, I find that the MGMIC Receiver's motion for advice and directions will result in a summary finding, but that the evidence before the court is sufficient to make such a finding.

Is the MGMIC Mortgage Valid?

[51] If the MGMIC mortgage is invalid, the funds held by the MGMIC Receiver would be split between Payam and A13MG. The OSC will seek to freeze any funds to which Payam may be entitled. If the mortgage is valid, the funds will be returned to the MGMIC investors.

[52] On its face, the MGMIC mortgage is valid as a registered instrument granted by 254 in the form of a second mortgage. However, A13MG argues that the mortgage is invalidated by the lack of a written consent pursuant to the Resolution.

[53] I find that while A13MG's counsel is correct that the Resolution was signed to prevent the very thing that came to pass, the actions of the parties involved belie any reliance on that

Resolution. Further, the Resolution does not specify what the form of the consent must be. The e-mail exchanges between Ricci and others involved including James and Payam make it clear that a second mortgage on Dovercourt was intended to be the security for the \$611,000 received from MGMIC.

[54] The second issue is whether the "conditions" mentioned by Ricci in his cross-examination would somehow negate any consent reached through email communication. The conditions involved a repayment to A13MG of the \$375,000 they had paid for a 50% shareholding interest in 254. What this court is unable to unravel is why A13MG would be repaid this money while retaining both their shareholding interest in 254 and their security in Dovercourt. Fortunately, that question does not need to be answered in the context of this motion. The fact that the money was not paid back to A13MG and allegedly retained by Payam and/or Ben does not invalidate the mortgage; it creates an issue between A13MG and Payam.

[55] There are also other actions of the involved parties which put the alleged invalidity of the mortgage in question. For example, in August 2017, approximately one month after discovering that the mortgage had been registered without consent, the involved parties (including Ricci) discussed via email a possible assignment of the second mortgage or bringing in more investors to register a third mortgage. Why were such discussions taking place rather than demands to discharge the mortgage if it was registered without consent? Again, the actions of the parties involved are inconsistent with steps taken without A13MG's knowledge or consent.

[56] In summary, I find that there was consent to register the MGMIC mortgage.

If the Mortgage is Invalid, Does the MGMIC Receiver Have Other Remedies?

[57] If I am wrong with respect to the enforceability of the MGMIC mortgage, what are the MGMIC Receiver's remedies?

[58] The MGMIC Receiver argues that it would be entitled to an equitable mortgage based on the common intention of 254 and MGMIC to grant a mortgage over Dovercourt.

[59] A13MG responds that the MGMIC Receiver has not come to court with clean hands and is therefore not entitled to an equitable remedy. Specifically, A13MG argues that MGMIC knew that it was granting a mortgage contrary to 254's by-laws. The MGMIC Receiver cannot seek relief that MGMIC could not seek itself.

[60] The principles and nature of an equitable mortgage are set out in *Elias Markets Ltd., Re*, 2006 CarswellOnt 5597. In that case, the Ontario Court of Appeal set out at paragraph 64 as follows:

The common law courts were primarily concerned with enforcing the strict legal rights of the parties, whereas equity was a court of conscience; it would step in to prevent an injustice that would otherwise arise from the strict application of the law.

In essence, the concept of an equitable mortgage seeks to enforce a common intention of the mortgagor and mortgagee to secure property for either a past debt or future advances, where that common intention is unenforceable under the strict demands of the common law.

[61] A13MG argues that since the directors of MGMIC knew that the mortgage funds would be deposited into 239's account and that the mortgage was not the subject of a Resolution, the MGMIC Receiver is now tainted with that deception or deliberate non-compliance. I disagree. The fact is that the innocent investors into MGMIC had no idea what the Katebians were planning and what non-compliance with any Resolution was alleged.

[62] The main issues with respect to finding the existence of an equitable mortgage are common intention and preventing any injustice that would result from a strict application of the law. Therefore, if I am wrong and non-compliance with the Resolution invalidates the mortgage, I find that a common intention existed to register a second mortgage and that finding otherwise would result in an injustice to the investors who were not tainted with any malfeasance alleged to have been perpetrated by the Katebiens.

[63] The MGMIC Receiver raised one final argument in the event that the mortgage was found to be invalid and that the investors were disentitled to an equitable mortgage. The MGMIC Receiver relied on Section 17(3) and 19 of the OBCA. Those sections prohibit a company from relying on its own internal procedural failures to nullify a transaction with a third party.

[64] A13MG argues these sections do not apply because those sections of the OBCA refer only to situations in which the person dealing with agent of the corporation knew or ought to have known that the agent did not have the authority to act. A13MG submits that since the directors of MGMIC knew that there was no authority to register the mortgage, they cannot rely on those sections of the OBCA, otherwise referred to as the "Indoor Management Rule."

[65] Once again, I find that the Katebians' knowledge of whether the transaction was authorized or not is of little consequence. The fact is that the investors were entitled to rely on the Indoor Management Rule with respect to any irregularities with internal corporate process. In any event, I have already found that there was a common intention to register the mortgage notwithstanding the terms of the Resolution.

ORDERS AND COSTS

[66] Counsel agreed at the end of the motion that the successful party would receive \$15,000 in costs. I requested that any Offers to Settle be received in a sealed envelope to be opened at the conclusion of writing these reasons. No Offers were received.

[67] Given all of the above, I make the following orders:

- (a) The Money Gate Mortgage Investment Corporation mortgage, formerly registered against Dovercourt, is valid and enforceable.

- (b) The Dovercourt funds shall be released to the Court-appointed Receiver for Money Gate Mortgage Investment Corporation for distribution.
- (c) The non-party 2496050 (A13MG) shall pay costs of \$15,000 to the Court-appointed Receiver, Grant Thornton Limited.



C. Gilmore, J.

Released: February 5, 2020

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Applicant

– and –

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