

Date: 20081202

Docket: T-1081-08

Citation: 2008 FC 1335

Ottawa, Ontario, December 2, 2008

PRESENT: The Honourable Mr. Justice Russell

BETWEEN:

DONALD BAXTER

Applicant

and

HER MAJESTY THE QUEEN

Respondent

REASONS FOR ORDER AND ORDER

[1] I have before me two motions in this action. In one of them, Mr. Baxter has applied to the Court for “leave to amend an origination document to include the words ‘simplified action’.” He has brought that motion in writing under Rule 369 of the *Federal Courts Rules, 1998*.

[2] The second motion is brought by Canada Mortgage and housing Corporation (CMHC) on behalf of the Crown for an order granting summary judgment to dismiss Mr. Baxter’s action or, in the alternative and if this matter proceeds as a simplified action, an order to strike and leave to amend the Crown’s statement of defence to plead a time-bar to the action.

[3] Mr. Baxter is representing himself and appeared before the Court in Winnipeg on November 10, 2008 on his own behalf. He conducted his case in a most forthright and pleasant way.

[4] I have considered both motions together.

[5] The matters of which Mr. Baxter complains are standard procedures under the legislation that governs mortgage lending in this country. At bottom, Mr. Baxter wants the Court to excuse him from meeting standard obligations because he says they are unfair. He cites no legal principle or authority that would allow the Court to grant the relief he seeks.

[6] The basis of Mr. Baxter's claim is summarized in his materials as follows:

3. It is my belief that the actions of Her Majesty the Queen, while having a legal basis, are arbitrary and unfair and put the rights of wealthy, multi-national corporations above the rights of citizens, a situation which should not and cannot exist in a free and democratic society, brings dishonour to the Crown and puts law above equity.

[7] Quite how the standard procedures or the governing legislation bring dishonour to the Crown and put law above equity is never explained or substantiated. Mr Baxter simply presents the Court with his opinions and beliefs, some of which reveal a tenuous understanding of how mortgage lending and mortgage insurance work in Canada.. Mr. Baxter simply wishes the Court to relieve him of his legal obligations because, in his opinion, they are unfair. He has provided no legal or factual basis upon which the Court could grant the relief he seeks in his claim. He makes vague accusations of unfairness and subterfuge against the Crown but, in the end, he just does not wish to make the payments to which mortgage borrowers in this country are subjected when foreclosure

occurs. Mr. Baxter made it clear at the hearing that his sole complaint is with the system itself. He does not think it is fair to him or other Canadians. He is asking the Court to agree with him that a national scheme, operated over many years, should not be allowed in a free and democratic society because he finds himself having to deal with the balance of his mortgage debt.

[8] Mr. Baxter's personal views of what is unfair and what ought to be tolerated in a free and democratic society do not constitute a basis in law or equity for the relief he seeks in his claim. Although I believe he is entirely sincere in the views he holds, Mr. Baxter's claim, in a legal sense, is frivolous and vexatious and discloses no genuine issues for trial.

[9] That being the case, in accordance with the Rules governing summary judgment, as recently articulated in *Liu v. Matrikon Inc.* 2008 CarswellNat 632 (F.C.) the Crown's motion for summary judgment must succeed.

[10] I have come to the conclusion that Mr. Baxter's claim should go no further and that the Crown should be granted summary judgment. There is no point in Mr. Baxter's motion under Rule 369 to amend his pleadings. Even as amended, his claim would still have no legal or equitable basis, would be frivolous and vexatious and would disclose no genuine cause of action. In addition, as the Crown points out, Mr. Baxter's claim is not exclusively for monetary relief because he wishes the Court to order that "CMHC be ordered to cease attempting to recover funds from the Plaintiff." It does not lend itself to the simplified action procedure.

ORDER

THIS COURT ORDERS that

1. The Crown's motion for summary judgment in this matter is granted and Mr. Baxter's claim is summarily dismissed.
2. Mr. Baxter's motion for an amendment to his pleadings is denied.
3. The Crown shall have the costs of both motions.

“James Russell”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1081-08

STYLE OF CAUSE: DONALD BAXTER v. HMTQ

PLACE OF HEARING: Winnipeg, Manitoba

DATE OF HEARING: November 14, 2008

**REASONS FOR JUDGMENT
AND JUDGMENT:** JUSTICE RUSSELL

DATED: December 2, 2008

APPEARANCES:

Mr. Donald Baxter FOR THE APPLICANT (Self-represented)

Mr. Wayne Onchulenko FOR THE RESPONDENT

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