Cassels

The Great Collateral Debate: Consumer Goods, Inventory, or Equipment?

Lauren Grossman, Brittany Bottan

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The British Columbia Supreme Court recently released its decision in *Summit Leasing v Rutledge*, 2025 BCSC 2142. This case provides helpful guidance on the characterization of collateral under the British Columbia *Personal Property Security Act,* RSBC 1996, C-369 (the "BC PPSA") as either consumer goods, inventory, or equipment and the treatment of such collateral thereunder.

In this case, a loan agreement was entered into between Summit Leasing Corporation, as the lender (the "Lender") and Donald Rutledge, as the borrower (the "Borrower") (the "Loan Agreement"). In connection with the Loan Agreement, the Borrower's wife and her company (collectively, the "Obligors") provided a security agreement in favour of the Lender, which granted the Lender a security interest in specific collateral owned by the Obligors: a motor vehicle, two motorcycles, a boat hull with motor, and a boat trailer (collectively, the "Collateral"). The security interest in the Collateral was perfected by registration under the BC PPSA.

The Borrower defaulted under the Loan Agreement and the Lender enforced the security interest granted to it under the security agreement. The Court considered, among other issues, whether the Collateral could be considered "consumer goods" or "equipment" under the BC PPSA. The Obligors sought to have the Court characterize the Collateral as consumer goods and be treated as such, pursuant to the BC PPSA.

Section 1(1) of the BC PPSA defines the three categories of goods as follows:

"Consumer goods" are defined as goods that are used or acquired for use primarily for personal, family or household purposes.

"Inventory" is defined as goods that are:

(a) held by a person for sale or lease, or that have been leased by that person as lessor,

(b) to be furnished by a person or have been furnished by that person under a contract of service,

(c) raw materials or work in progress, or

(d) materials used or consumed in a business.

"Equipment" is a catch all (or residual) category and is defined as goods that are held by a debtor other than as inventory or consumer goods.

The Court clarified, at para. 15, that "goods are categorized based on their use by the debtor, rather than their inherent characteristics."

Where goods are classified as consumer goods, Section 67 of the BC PPSA will apply. This section is commonly described as the "seize or sue" provision and provides for certain exceptions to the rights of a secured party in enforcing a security interest against consumer goods. In short, this provision provides a lender with two options when a borrower defaults on a loan secured by a consumer good: the lender can *either* seize the consumer good *or* sue the borrower for the amount owed. If the seize option is pursued, the right to sue for the remaining balance is extinguished.

Ultimately here, there was insufficient evidence for the Court to conclude that the Collateral at the time the security interest attached was used by the Obligors as consumer goods. As such, the Collateral was determined to be classified as equipment and accordingly, the Lender's rights and remedies to the Collateral were not limited by Section 67 of the BC PPSA.

This case serves as a reminder and illuminates the importance of ensuring that proper diligence is conducted on collateral that is intended to be subject to a security interest and that security agreements include appropriate representations and warranties with respect to the classification of collateral to ensure that lenders are not limited in their rights and remedies of enforcement under the BC PPSA.

If you have any questions about the categorization of collateral under the PPSA and how it applies to your business, please do not hesitate to contact any member of our Banking & Specialty Finance Group.
