

2011 : No. 1 Spring

Sanjeev Sanj Rai

Surrey, BC

Called to the bar: May 23, 2001

**Discipline hearing** : November 24, 2010

**Panel** : David Mossop, QC (single Bencher panel)

**Oral decision issued**: November 24, 2010

**Report issued** : January 19, 2011 (2011 LSBC 02)

**Counsel** : Jaia Rai (no relation to the respondent) for the Law Society and William S. Clark and Scott Marcinkow for Sanjeev Sanj Rai

## Facts

From February 2004 to February 2005, Sanjeev Sanj Rai represented multiple parties in 12 real estate transactions involving mortgage financing, which were referred to him by the same realtor. All of the properties were condominiums. The transactions were fraudulent and part of a sophisticated scheme designed by the realtor to obtain mortgage proceeds under false pretences.

The realtor referred each of the transactions to Rai after the respective contracts of purchase and sale and addenda, where applicable, had already been purportedly executed by the parties. At the realtor's direction, Rai did not take instructions from his purchaser clients to perform any strata specific searches.

In four of these transactions, Rai did not prepare all of the relevant documentation, meet with all of the clients, or oversee all of the closings, because he was out of the country for three weeks. Instead, he improperly delegated various duties to his staff who worked on these transactions unsupervised for the most part.

Overall, Rai failed to make any inquiries to assess the bona fides of the transactions or his purchaser clients, who were not at arm's length from the realtor. He failed to recognize the fraudulent nature of the scheme and the many red flags raised by the characteristics of the transactions.

In addition, he failed to disclose material facts to his lender clients, and failed to provide adequate legal advice to, and protect the interests of, his purchaser and lender clients. He also abdicated his professional responsibility by improperly delegating tasks to support staff and representing various parties while in a conflict of interest.

## Admission and disciplinary action

Rai admitted that his conduct in each of the allegations constituted professional misconduct. With respect to the mortgage fraud allegation, he admitted that he ought to have known the scheme was fraudulent. He did not admit to knowing at the time that the transactions were fraudulent, and the Law Society accepted that this admission was consistent with the evidence.

Lawyers have an obligation to the public to be vigilant. The misconduct in this case was extremely serious, notwithstanding that Rai did not knowingly facilitate mortgage fraud.

In determining the appropriate penalty, the panel took mitigating factors into consideration.

The fraudulent mortgage transactions occurred in a rising real estate market and at a time when there was minimal, if any, publicity or information about fraudsters targeting lawyers to facilitate mortgage fraud.

Rai had a professional conduct record and was subject to practice supervision by another lawyer from December 2004 to July 2006 and practice reviews by the Law Society from November 2004 to May 2007. This period of supervision was overlapping with the transactions that occurred between February 2004 and February 2005.

The panel recognized that Rai's misconduct stemmed from his inexperience in the area of real estate law. His actions were not motivated by personal gain and did not result in any financial benefit beyond the modest fees billed for the work performed. It also appeared that the lenders who may have suffered a loss as a result of Rai's conduct have recovered their losses.

In this case, an oral decision was given before the written reasons to enable the suspension to begin shortly after the hearing.

The panel ordered that Rai:

1. be suspended for three months; and
2. pay \$11,500 in costs.