SUPREME COURT OF CANADA CONFIRMS: HYPOTHECARY NOTICES IN QUÉBEC RECEIVERSHIPS ARE HERE TO STAY

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On April 1, 2021, the Supreme Court of Canada dismissed an application for leave to appeal[1] in the matter of *Séquestre de Media5 Corporation*, a judgment rendered last summer by the Québec Court of Appeal[2]. The judgment from the Court of Appeal had settled the debate on the necessity for a secured creditor to comply with the notice requirement and periods associated with the exercise of hypothecary rights (exercise of security), as set out in the *Civil Code of Québec* ("**CCQ**"), when appointing a receiver under section 243 of the *Bankruptcy and Insolvency Act* ("**BIA**").

Prior to the Court of Appeal's judgment, Quebec case law was divided on the subject. The Court of Appeal had confirmed the need to follow requirements under Provincial Legislation in addition to those under the BIA. Moreover, despite the requirement to follow provincial notice requirements, the Court of Appeal's judgment nonetheless confirmed the existence of an independent receivership regime under the BIA.

With the dismissal of the application for leave to appeal, the Supreme Court of Canada thus confirms the decision of the Quebec Court of Appeal is now final.

For more details, you can consult our summary of the Québec Court of Appeal's decision here.

[1][ps2id id='1' target='/] Media5 Corporation, et al. v. Laurentian Bank of Canada, et al., 2021 CanLII 24824 (SCC)
[2][ps2id id='2' target='/] Séquestre de Media5 Corporation, 2020 QCCA 943

By Sidney Elbaz, Emile Catimel-Marchand and Nicholas Yanakis.

A Cautionary Note