



The Supreme Court of Canada rules that a party cannot bring a second claim for money if it was already decided in an earlier court case.

This case is about whether a party can bring a second claim for money from a property sale after a court has already decided how the proceeds of sale should be divided among creditors. A company called 11368 NL Inc. owned a property that had several mortgages, including some held by Patrick Street Holdings Limited. When 11368 NL Inc. failed to repay one of the mortgages, it granted a new \$4 million mortgage to Patrick Street. Patrick Street then exercised its right under the mortgage to have the property sold.

Afterward, Patrick Street prepared a list showing how the sale proceeds should be divided among creditors. This is called an accounting. The accounting included a claim to pay out to Patrick Street the new \$4 million mortgage. Two other creditors challenged the accounting in court. The judge excluded a number of claims from the accounting, including Patrick Street's \$4 million mortgage. The Court of Appeal agreed with that decision.

Later, 11368 NL Inc. asked the court to receive the remaining money from the sale. In response to this second court case, Patrick Street argued that it should still be paid the \$4 million, despite the earlier decision. The judge rejected that argument and ordered that 11368 NL Inc. be paid the remaining money from the proceeds of sale after other valid claims. The Court of Appeal again agreed. Patrick Street appealed to the Supreme Court of Canada.

The Supreme Court dismissed the appeal.

A party must advance all its arguments in a court case and cannot raise them for the first time in a later case.

Writing for the majority of judges, Chief Justice Wagner explained that the law does not allow parties to bring the same case or the same issues back to court once they have already been decided. This rule is known as *res judicata* and ensures disputes come to an end and are not relitigated.

Chief Justice Wagner confirmed that a party wanting to rely on *res judicata* must raise it as soon as possible. While the party does not need to explicitly name the rule to rely on it, they need to clearly plead the facts that would support using the rule in their case.

In this case, 11368 NL Inc. met this requirement by relying on the earlier decision that excluded the \$4 million mortgage from the accounting. The earlier decision already settled the issue of which claims were valid and should be paid from the sale. That decision was final and involved the same parties. Patrick Street had the chance to make all of its arguments at that time but did not do so. It cannot now try again in a later case.

Breakdown of the decision: *Majority:* Chief Justice [Wagner](#) dismissed the appeal (Justices [Rowe](#), [Kasirer](#), [Jama](#), [O'Bonsawin](#) and [Moreau](#) agreed) | *Dissenting:* Justice [Martin](#) would have allowed the appeal (Justice [Karakatsanis](#) agreed) | *Dissenting:* Justice [Côté](#) would also have allowed the appeal, for different reasons

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