

CITATION: Lambert Express Trust v. Computershare Trust Company, 2025 ONSC 3800
COURT FILE NO.: CV-24-5935
DATE: 2025 06 26

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Lambert Express Trust and Anne Marie Lambert, Plaintiffs

AND:

Computershare Trust Company of Canada c/o Home Trust
and Vani Aggarwal, Defendants

BEFORE: M.T. Doi J.

COUNSEL: Anne Marie Lambert, self-represented Plaintiff

Parjot Benipal, for the Defendant Vani Aggarwal

James Riewald, for the Defendant Computershare Trust Company of Canada

Overview

[1] On January 29, 2025, I directed the registrar to give the plaintiffs notice that I had reviewed the statement of claim and was considering a request to dismiss the action for being frivolous or vexatious or an abuse of the court's process. The registrar notified the plaintiffs and invited them to make written submissions. In response, the plaintiff Anne Marie Lambert delivered a submission dated February 12, 2025.

[2] For the reasons that follow, I am satisfied that the action should not be dismissed under Rule 2.1.01(1) of the *Rules of Civil Procedure*, RRO 1990, Reg. 194.

Legal Principles

[3] Rule 2.1.01(1) allows the court to exercise its gatekeeping function by making a summary determination as to whether, on its face, a proceeding should be dismissed for being frivolous or vexatious or otherwise an abuse of process. A frivolous or vexatious action lacks a legal basis or legal merit, or is brought without reasonable grounds: *Van Sluytman v. Orillia Soldiers' Memorial Hospital*, 2017 ONSC 692 at para 11.

[4] The key principles governing the operation of Rule 2.1 were summarized by the Court of Appeal in *Visic v. Elia Associates Professional Corporation*, 2020 ONCA 690 at para 8, leave to appeal refused [2020] SCCA No. 473, as follows:

1. Rule 2.1 must be “interpreted and applied robustly so that a motion judge can effectively exercise his or her gatekeeping function to weed out litigation that is clearly frivolous, vexatious, or an abuse of process”: *Scaduto v. The Law Society of Upper Canada*, 2015 ONCA 733, at para. 8, leave to appeal refused, [2015] S.C.C.A. No. 488. The Rule is not for close calls — it may be used only in “the clearest of cases where the abusive nature of the proceeding is apparent on the face of the pleading and there is a basis in the pleadings to support the resort to the attenuated process”: *Scaduto*, at paras. 8-9; *Khan v. Law Society of Ontario*, 2020 ONCA 320 (“*Khan*”), at para. 6, leave to appeal [refused 2021 CanLII 4696 (SCC)].

2. A motion under r. 2.1 focuses on the pleadings and any submissions of the parties made under the rule. No evidence is submitted on a r. 2.1 motion: *Scaduto*, at paras. 9, 11-12. A court may, however, review reasons and pleadings from other proceedings to determine whether the case is abusive: *Khan*, at para. 9.

3. Rule 2.1 does not replace other rules in the *Rules of Civil Procedure* to strike out actions or to deal with other procedural irregularities summarily: *Khan*, at para. 7. The rule is “not meant to be an easily accessible alternative to a pleadings motion, a motion for summary judgment, or a trial”: *Khan v. Krylov & Company LLP*, 2017 ONCA 625, 138 O.R. (3d) 581, at para. 12; *P.Y. v. Catholic Children’s Aid Society of Toronto*, 2020 ONCA 98, at para. 11. The Rules provide many other remedies to address cases that are not clear on the face of the pleading: *Khan*, at para. 15.

Analysis

[5] As set out below, I do not find that this action is clearly frivolous, vexatious, or an abuse of the court’s process to justify a dismissal under Rule 2.1.

[6] As no evidence is entertained on a Rule 2.1 motion, I have not considered the affidavit of the plaintiff Ms. Lambert sworn November 28, 2024 that was filed with the statement of claim in this proceeding. That said, I have considered Ms. Lambert’s written submission as filed.

[7] The plaintiffs allege in the statement of claim that the corporate defendant, Computershare Trust Company of Canada c/o Home Trust (“Computershare”), and the personal defendant, Vani Aggarwal, made “errors” in administering a mortgage for a Brampton property. Ms. Aggarwal is alleged to be associated with Computershare. The alleged errors purportedly occurred after both defendants had received various mortgage payments following a sale of the Brampton property that closed on June 9, 2023. Among other things, the statement of claim alleges that the defendants

did not provide disclosure and improperly remortgaged a settled or closed account. The plaintiffs claim that the defendants committed an error, a breach of trust, or a fraud that resulted in damages. The statement of claim seeks a total of \$558,333.45 in damages along with pre and post judgment interest at a rate of 4.25% per annum, plus costs of the proceeding.

[8] I find that the statement of claim pleads an arguable and discernable claim for damages against both defendants (i.e., due to their alleged administration of the mortgage), that should be allowed to proceed at this time. In considering whether to dismiss an action under Rule 2.1, the pleading should be read generously to allow for drafting deficiencies and to identify the core complaint pleaded: *Gao v. Ontario (Workplace Safety and Insurance Board)*, 2014 ONSC 6497 at para 18; *Chijindu v. Law Society of Ontario*, 2025 ONSC 2656 at para 4. On a generous and liberal reading of the statement of claim, and after allowances for drafting deficiencies in the pleading, I am persuaded that the claim adequately sets out material facts that disclose a real basis for an arguable claim in unjust enrichment, breach of trust, or civil fraud as against both defendants. In my view, the statement of claim raises a discernable cause of action against Computershare and Ms. Aggarwal due to their alleged receipt of funds and involvement in administering the mortgage that led to the purported “errors” grounding the core complaint and damages claim in the action.

[9] Taking everything into account, I am satisfied that the statement of claim is not so devoid of potential merit as to be frivolous, vexatious, or an abuse of process on its face, or lacking any reasonable expectation that the relief sought may be obtained: *Brown v. Lloyd's of London Insurance Market*, 2015 ONCA 235 at para 11. Accordingly, I am not persuaded that the statement of claim should be dismissed at this time under Rule 2.1.01(1). That said, the Rules may afford other remedies to address any irregularities in respect of the claim: *Visic* at para 8; *Khan* at para 15.

Outcome

[10] Based on the foregoing, I decline to dismiss the action under Rule 2.1.01(1). Given the early stage of this motion, I find that costs for the motion should be reserved to the trial judge who will be in a better position to assess all of the relevant factors on a complete record in due course.

Date: June 26, 2025

M.T. Doi J.

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ENDORSEMENT

M.T. Doi J.

DATE: June 26, 2025