

COURT OF APPEAL FOR ONTARIO

CITATION: Samiy Retail Inc. v. Kallarakkal, 2025 ONCA 671

DATE: 20250924

DOCKET: COA-25-CV-0132

Gillese, Favreau and Rahman JJ.A.

BETWEEN

Samiy Retail Inc.

Plaintiff/Moving Party  
(Respondent)

and

Sajish Kallarakkal

Defendant/Responding Party  
(Appellant)

Haider Ashraf, for the appellant

Robert Hine, for the respondent

Heard: September 23, 2025

On appeal from the order of Justice Suzan Fraser of the Superior Court of Justice, dated December 10, 2024, with reasons reported at 2024 ONSC 6896.

REASONS FOR DECISION

[1] This appeal arises from a failed real estate transaction. The appellant failed to close on the transaction because he was unable to obtain the necessary financing. The respondent then sold the property but at a lower purchase price.

Next, the respondent brought an action for breach of contract followed by a successful motion for summary judgment. The appellant appeals. He claims, among other things, that there were genuine issues requiring a trial and that the damages awarded were excessive.

[2] After hearing the appellant's oral submissions, we found it unnecessary to call on the respondent. The issues raised on appeal are essentially the same as those raised below and the appellant has established no basis for appellate intervention with those orders.

[3] The motion judge addressed each and every issue the appellant raised. She correctly articulated the legal principles governing summary judgment motions and made no error in determining that the appellant had not raised any genuine issues requiring a trial. We do not find that determination surprising as failed real estate transaction cases typically lend themselves to being decided by summary judgment given their heavy reliance on documents.

[4] The motion judge also articulated the correct legal principles governing the validity and interpretation of the agreement of purchase and sale, and those for determining damages for breach of such an agreement. The findings of fact the motion judge made were fully available on the record. Further, we see no reviewable error in her application of the legal principles to those findings.

[5] Accordingly, we dismiss the appeal for the reasons given by the motion judge, with costs to the respondent fixed at \$15,000, all inclusive.

“E.E. Gillese J.A.”  
“L. Favreau J.A.”  
“M. Rahman J.A.”