

CITATION: Platinum Cars Inc. et al v. Registrar, *Motor Vehicle Dealers Act, 2002*, 2025
ONSC 6958

DIVISIONAL COURT FILE NO.: DC-24-00000117-0000

DATE: 20251211

**SUPERIOR COURT OF JUSTICE - ONTARIO
DIVISIONAL COURT**

RE: PLATINUM CARS INC. and SHAUN JALILI

Appellants

AND

REGISTRAR, *MOTOR VEHICLE DEALERS ACT, 2002*

Respondent

BEFORE: The Honourable Mr. Justice M.D. Faieta

COUNSEL: *Tim Gleason, agent*, for the Appellants Platinum Cars Inc. and Shaun Jalili

Jillian Siskind, for the Respondent, Registrar, Motor Vehicle Dealers Act, 2002

HEARD: December 3, 2025

ENDORSEMENT

[1] The Respondent, the Registrar under the *Motor Vehicle Dealers Act 2002*, S.O. 2002, c. 30, Sched. B. (the “Act”) brings this motion to dismiss this appeal for delay and for other relief.

BACKGROUND

[2] On February 16, 2024, the Licence Appeal Tribunal (the “LAT”) upheld the decision of the Registrar to revoke the Appellants’ registrations under the Act for breaches of conditions of registration and selling cars with defects without disclosing those defects to the buyers: *Jalili and Platinum Cars Inc. v. Registrar, Motor Vehicle Dealers Act, 2002*, 2024 CanLII 13104 (ON LAT)

[3] On February 20, 2024, the Appellants appealed that decision to the Divisional Court.

[4] On April 9, 2024, Leiper J. dismissed the Appellants’ motion for a stay pending appeal. See *Platinum Cars Inc. v. Registrar, Motor Vehicle Dealers Act, 2002*, 2024 ONSC 2077 (Div. Ct.).

[5] On June 6, 2024, a panel of the Divisional Court dismissed the Appellants' motion pursuant to s. 21(5) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 to set aside Leiper J's Order and to grant a stay pending the hearing of the appeal: see *Platinum Cars Ltd. v. Registrar, Motor Vehicle Dealers Act, 2002*, 2024 ONSC 3225.

[6] On May 6, 2025, this appeal was perfected.

[7] On June 27, 2025, the Registrar filed this motion for the following:

- a. an order under Rule 61.13(1) of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 dismissing the appeal for delay;
- b. an order under Rule 57.03(2) of the *Rules of Civil Procedure* dismissing the appeal for failure to pay the awards of costs due to the Registrar; and
- c. an order dismissing the Appellants' motion for fresh evidence.

[8] At a Case Conference on September 19, 2025, it was directed that this appeal be heard on February 18, 2026. This motion was also scheduled to be heard on December 3, 2025.

ANALYSIS

[9] Subrule 61.09(1) of the *Rules of Civil Procedure* states:

The appellant shall perfect the appeal by complying with subrules (2) and (3),

- (a) where no transcript of evidence is required for the appeal, within thirty days after filing the notice of appeal; or
- (b) where a transcript of evidence is required for the appeal, within 60 days after receiving notice that the evidence has been transcribed.

[10] Rule 61.13(1)(b) of the *Rules of Civil Procedure* states:

Where an appellant has not ... perfected the appeal within the time prescribed by subrule 61.09 (1), the respondent may make a motion to the Registrar, on ten days notice to the appellant, to have the appeal dismissed for delay.

[11] The appellants received all transcripts on April 27, 2024. The appeal was perfected on May 6, 2025, about six weeks before the Registrar served this motion to dismiss. The parties advised that they were unable to find any cases where a motion to dismiss was brought after an appeal was perfected.

[12] As noted by Myers J. in *Pollard Windows Inc. v 1736106 Ontario Inc.*, 2019 ONSC 4859 (Div. Ct.), at paras. 29 and 32:

- (a) “Rule 61.09 does not set a hard deadline for perfecting appeals. Rather, the passing of the 30 days simply entitles the respondent to move for dismissal for delay if it is so inclined”.
- (b) “Rule 61.13 provides an express opportunity to the appellant to cure its default of the 30-day time limit by perfecting the appeal before the hearing of the motion to dismiss for delay or before the running of the ten days’ notice provided by the registrar”.

[13] A sensible reading of r. 61.13(1)(b), that accords with the principles under Rule 1.04, should lead to the conclusion that a motion to dismiss an appeal for delay may be brought only before an appeal is perfected. The Civil Rules Committee should consider amending Rule 61.13 to clearly impose this limitation.

[14] Given that the parties did not make submissions on whether a motion to dismiss may be brought after an appeal is perfected and I am able to dispose of this motion without addressing that issue, I will determine this motion based on the usual principles that govern a motion to dismiss an appeal for delay.

[15] The test for determining whether an appeal should be dismissed for delay was described by Simmons J.A. in *Sheth v. Randhawa*, 2022 ONCA 89, at para. 15, as follows:

... The ultimate question is whether the justice of the case warrants the order requested. Factors to be considered in making the decision are: (i) whether the appellant formed an intention to appeal within the appeal period; (ii) the length of the delay; (iii) the explanation for the delay; (iv) the merits of the proposed appeal; and (v) prejudice to the responding parties. [Citations omitted.]

Did the Appellants form an Intention to Appeal within the Appeal Period?

[16] The appellants filed an appeal within the appeal period. The appellants maintained the intention of pursuing this appeal as they instructed their counsel to perfect the appeal and regularly followed up on such instructions. The delay largely resulted from the inaction of their counsel.

The Length of the Delay

[17] There was about a ten-month delay in perfecting this appeal given that it should have been perfected by June 26, 2024.

The Explanation for the Delay

[18] The appellants offer the following explanation for the delay in perfecting this appeal:

- (a) Their lawyer was involved in urgent issues following dismissal of the stay motions including dealing with the release of Platinum’s vehicle ownerships and negotiations with Platinum’s lender

- (b) The associate lawyer who was working on the appeal materials left the practice of law and was working only limited hours for personal reasons leading up to this departure
- (c) A new lawyer had to review all the evidence and get up to speed on the appeal
- (d) During that review, a new repair invoice came to light which required additional time with respect to new issues.

[19] The Registrar submits that the length of the delay due to counsel's inadvertence was during the period from July 8, 2024 to January 6, 2025 given that Mr. Jalili provided a copy of emails sent to his counsel repeatedly requesting an update on the status of this appeal. The Registrar submits that there is no explanation for the subsequent delay. Mr. Zucker, in his affidavit, states that the Registrar did not express any concern with the timing of the perfection of this appeal. Mr. Zucker states that in mid-February 2025, he advised the Registrar the appeal would be perfected by the end of February, 2025. However, Mr. Zucker did not meet this target and he brought in new counsel to assist him with completing the appellant's factum given that his associate that had been assisting him on this file had left the practice of law in October 2024.

The Merits of the Proposed Appeal

[20] The Registrar submits there is no merit to this appeal. The Registrar submits that the appeal characterizes numerous findings of fact as raising questions of law without explanation. The appellants submit that the LAT made a palpable and overriding error when he found that there was no evidence of the repair to a BMW that was sold. The Registrar submits that the appellants failed to advance evidence to the contrary.

[21] The appellants submit that the Vice-Chair was misled by factually incorrect submissions which resulted in a serious finding of misconduct related to the sale of the BMW. At paragraph 78, the Vice-Chair found, based on the Registrar's submissions, that "... there was no evidence that the issue was repaired before the BMW was sold to [the buyer]". The appellants state that there was a repair invoice in the Registrar's productions which shows that such repairs had been performed and thus contradict the finding that the appellants knowingly sold a vehicle with a serious defect. The merit of this ground of appeal on liability remains questionable.

[22] The appellants also appeal the penalty imposed on the grounds that it was "clearly unfit" as the decision did not refer to any circumstances of the appellants that favoured a penalty less harsh than full revocation and did not assess the full range of appropriate penalties.

Prejudice to the Responding Parties

[23] The Registrar submits that the ten-month delay in perfecting this appeal prejudices the Registrar and the administration of justice:

- (a) The Registrar states that it has suffered considerable prejudice caused by the appellants' "harassment and intimidation campaign" following the LAT's decision. These allegations are denied and the appellants submit that they are unrelated to the appeal and do not arise from any delay in respect of the perfection of the appeal;

(b) The Registrar submits that the appellants are abusing the court process as they perfected the appeal only after its alleged intimidation tactics failed. The Registrar further submits that the appellants continue to trade automobiles in Ontario despite not being licenced to do so. The appellants deny these allegations.

[24] As noted by Myers J. in *Pollard* at para. 30:

...a respondent who is prejudiced by delay in the perfection of an appeal has tools available to address its concerns such as: a motion for security for costs, a motion to lift the stay pending appeal, a motion for directions, a timetable, or in an appropriate case, a case management chambers appointment, or, in the worst case, a motion to dismiss the appeal for delay.

[25] None of those steps were taken by the Registrar in the many months before this appeal was perfected. Its failure to do so supports the view that it did not suffer any prejudice related to the delay in perfecting this appeal. I find that the Registrar has not demonstrated any prejudice arising from the delay in perfecting this appeal.

CONCLUSIONS

[26] In my view, the justice of this case does not warrant the dismissal of this appeal for delay in perfecting the appeal. Accordingly, the Registrar's motion for dismissal for delay is dismissed. The appellants' motion to admit the fresh evidence on this appeal shall be determined by the panel that hears this appeal.

[27] The parties' position on costs was peculiar. The parties agreed that the amount of costs that either party may claim on this motion should be \$20,000, however they did not agree on whether it should be awarded. Costs of the motion to dismiss this appeal are fixed at \$20,000 and are reserved to the panel that hears the appeal.

M.D. Faieta J.

RELEASED: December 11, 2025