

COURT OF APPEAL FOR ONTARIO

CITATION: Flexpark Inc. v. Ercolani, 2026 ONCA 36

DATE: 20260120

DOCKET: COA-25-CV-0423

Miller, Zarnett and Monahan JJ.A.

BETWEEN

Flexpark Inc.

Plaintiff (Respondent)

and

Patrizia Ercolani

Defendant (Appellant)

and

Diamond Capital Investments Inc., Sabine Pucciarelli and Mariann  
Karageorgievski

Third Parties

Granville Cadogan, for the appellant

Cristina Internicola and Nicholas Przulj, for the respondent

Heard: January 16, 2026

On appeal from the judgment of Justice M.J. Lucille Shaw of the Superior Court of Justice dated March 7, 2025, with reasons reported at 2025 ONSC 1520.

REASONS FOR DECISION

[1] The appellant, Patrizia Ercolani, appeals from a summary judgment that found her liable under a mortgage she granted to the respondent, Flexpark Inc. The judgment (i) requires Ms. Ercolani to pay Flexpark the amount of \$356,250 together with interest, (ii) orders Ms. Ercolani to deliver possession of the mortgaged premises to Flexpark and directs it to bring a motion for leave to obtain a writ of possession, and (iii) dismisses Ms. Ercolani's counterclaim.

[2] At the oral hearing we dismissed the appeal with reasons to follow. These are the reasons.

[3] Although her factum raises a number of issues, counsel's oral argument on behalf of Ms. Ercolani concentrated on the submission that the motion judge had granted partial summary judgment and that this was inappropriate as there were overlapping issues being litigated in other proceedings giving rise to the risk of inconsistent findings. According to Ms. Ercolani's counsel, the proper disposition of the motion for summary judgment was to refer the matter for trial or alternatively, to stay any judgment pending disposition of the other proceedings.

[4] We disagree.

[5] The motion judge found there was no issue requiring a trial, that Flexpark had made the mortgage advance, that any fees deducted or paid out of the advance were justified, and that default in repayment had occurred and was continuing. The judgment resolved the entire action and counterclaim, and thus all

of the issues between Flexpark and Ms. Ercolani relating to the mortgage loan in question. There are no other parties to the action or counterclaim.

[6] Although Ms. Ercolani has a pending third-party claim against the lawyer who represented her on the mortgage loan, and an individual (and her corporation) whom she claims owed her fiduciary duties as her advisor in respect of the loan, that does not make the judgment an inappropriate partial summary judgment. The third-party claim is premised on Ms. Ercolani having liability in the main action, which has now been found. The third-party claim will determine whether the lawyer and/or alleged advisor breached any duties they owed to Ms. Ercolani requiring them to indemnify or compensate her for the consequences of her liability on the mortgage. There is no meaningful risk of inconsistent findings that would justify postponing Flexpark's rights to enforce the mortgage pending a determination of the third-party claim.

[7] Nor does the existence of ongoing regulatory proceedings involving one of the third parties stand as an obstacle to the grant or enforcement of judgment on the mortgage. Neither Flexpark nor Ms. Ercolani are parties to those proceedings.

[8] Finally, it is not germane that Flexpark has a pending action against others (not including Ms. Ercolani) for damages relating to this and other mortgage loans it advanced. Although Ms. Ercolani asserts that in that action Flexpark has taken the position that the mortgages are fraudulent, the claim does not say that this

mortgage was invalid or that Ms. Ercolani was the victim of any wrongdoing. Flexpark's allegation is that it was duped by the defendants to that action into making mortgage loans without accurate information bearing on the value of the security or ability of the borrowers to pay. Flexpark claims for its losses as a result of making the loans. There is nothing inconsistent in Flexpark enforcing any of the mortgages and recovering what it can from the borrowers, such as Ms. Ercolani, and pursuing a claim for damages against others if it suffered losses as a result of making the loans.

[9] As for the other arguments advanced in the appellant's factum, they do not show any reversible error in the motion judge's decision that would justify our interfering with it.

[10] The appeal is therefore dismissed. Flexpark is entitled to costs of the appeal, payable by Ms. Ercolani, in the amount \$10,000 inclusive of disbursements and applicable taxes.

"B.W. Miller J.A."

"B. Zarnett J.A."

"P.J. Monahan J.A"