

CITATION: Benabed v Levasseur 2026 ONSC 867
COURT FILE NO.: CV-23-00696482
MOTION HEARD: 20260212

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: Zoubida Benabed, Plaintiff

AND:

Christian Levasseur, Chonggui Chen, Nantu Kumar Ghosh, Suabe Kasam, Tinku Ghosh, Jharna Rani Ghosh, Daimyo Real Estate Corporation, Defendants

BEFORE: Associate Justice Jolley

COUNSEL: Scott McGrath, counsel for the moving party plaintiff

Christian Levasseur, self-represented responding party defendant

Nantu Ghosh, self-represented responding party defendant

Tinku Ghosh, self-represented responding party defendant

Daimyo Real Estate Corporation by Christian Levasseur, self-represented responding party defendant

HEARD: 11 February 2026

REASONS FOR DECISION

A. Overview

[1] The plaintiff has been unable to move her action forward as a result of the defendants' lack of compliance with a series of court orders. The plaintiff alleges that the defendants Nantu Ghosh, Tinku Ghosh, Christian Levasseur, Daimyo Real Estate Corporation and Suabe Kasam (together, the "Defaulting Defendants") have been able to simply ignore the orders and kick the ball down the field, to the delay and expense of the plaintiff.

[2] At this juncture, the plaintiff seeks an order striking the defences of the Defaulting Defendants

B. The Status

1. Daimyo Real Estate Corporation ("Daimyo")

- [3] Christian Levasseur (“Levasseur”) is the sole director of Daimyo. He is not a lawyer. On 15 September 2023, he filed a joint notice of intent to defend for himself and Daimyo, as well as a statement of defence.
- [4] On 15 October 2025, Daimyo agreed, through counsel retained to appear for that day’s motion only, to an order that it appoint counsel or obtain a motion date for a motion seeking an order permitting it to be represented by a non-lawyer.
- [5] It also agreed to deliver its affidavit of documents by 31 December 2025, which was then set out in the order of Eckler, A.J. made 15 October 2025.
- [6] Daimyo is in breach of both parts of Eckler, A.J.’s order. It did not file any responding materials on this motion. Levasseur suggested that Daimyo be given more time to comply.

2. Levasseur

- [7] Levasseur was ordered to pay the plaintiff costs of \$2,000 on 7 February 2025. He did not do so. He asked for and was given an extension to 1 December 2025 and he still did not comply with the court order and pay the outstanding costs. He has not paid them to date.
- [8] He also agreed, through counsel attending that day for the purpose of the motion only, to deliver his affidavit of documents by 31 December 2025, which was then set out in Eckler, A.J.’s 15 October 2025 order. He has not done so and is in default of that order.
- [9] He filed no responding materials on this motion. He attended and argued that he should be given time to pay with an agreed upon payment schedule. He also argued that the plaintiff “owes” him \$20,000 and should be required to pay him first. Contrary to his submissions, there is no order requiring the plaintiff to pay Levasseur any amount of money. Nor was there any explanation of why a payment over time would be appropriate for a \$2,000 award that has been outstanding in its entirety for more than a year.

3. Nantu Ghosh (“Nantu”)

- [10] Nantu has multiple outstanding court-ordered costs payments to the plaintiff, which he has ignored. On 12 September 2024, Dow, J. ordered him to pay \$24,272.78 forthwith. He has not made any payments toward that order in the last 27 months. On 7 February 2025, the Divisional Court ordered Nantu to pay the plaintiff \$2,000 within 30 days. He has not made any payments toward that order over the last year. On 27 June 2025, the Divisional Court ordered Nantu to pay \$1,900 to the plaintiff. He has not made any payments toward that order in the last 7 months.
- [11] Eckler, A.J. extended the payment date for all those sums to 1 December 2025. Nantu did not make any payment in whole or in part, even though counsel he retained for that motion only represented that Nantu “intended to take steps to pay the outstanding costs awards.”
- [12] Nantu filed no responding materials on this motion. He attended and argued that he should be given more time to pay. He also argued that the plaintiff rejected his offer of payment

over time but did not explain why he simply did not proceed to make instalment payments regardless. He argued that he cannot afford to pay, which seems to be contrary to his October 2025 representation to Eckler, A.J. that he would pay, and contrary to any suggestion that more time to pay would be of any benefit. In any event, any argument about his lack of funds should have been raised before Dow, J. and the various Divisional Court matters. This is not an appeal of those orders.

4. Tinku Ghosh (“Tinku”)

- [13] Tinku was ordered to pay the plaintiff \$1,000 in costs within 30 days of 7 February 2025. He did not pay the costs award. On 15 October 2025, Eckler A.J. gave him an extension to 1 December 2025 to pay. He did not pay by that deadline either. However, he did pay the costs ordered on 10 February 2026, the day before this motion was heard.
- [14] Tinku also served his affidavit of documents at the deadline of 31 October 2025.
- [15] Tinku signed into court this morning without camera and on mute. He left at 10:30 before his submissions were requested. He did not file any responding materials.

5. Suabe Kasam (“Kasam”)

- [16] On 15 October 2025, Kasam was ordered to serve his affidavit of documents by 31 December 2025. He has not complied with that order. He did not file responding materials on this motion. He did not attend before Eckler, A.J. in October 2025 and was not in attendance at this motion.

C. The Remedy

The Test

- [17] In exercising its discretion whether to strike a pleading, the court is to consider many commonsense factors, such as whether the failure is deliberate or inadvertent, whether the failure is clear and unequivocal, whether there is a reasonable explanation for the default and a credible commitment to cure the default quickly, whether the substance of the default is material or minimal, whether the party remains in default at the time of the motion to strike its pleading and the impact on the court’s ability to do justice in the particular case. It will also consider whether striking the pleading is a proportionate remedy. (*Falcon Lumber Limited v 2480375 Ontario Inc (GN Mouldings and Doors)*, 2020 ONCA 310 at paragraph 57).

1. Levasseur and Daimyo

- [18] Daimyo has not appointed counsel or brought a motion for leave to be represented by a non-lawyer. It has not served an affidavit of documents as ordered in October 2025 and has not paid court-ordered costs.

- [19] Levasseur has also not served an affidavit of documents and has ignored a court-ordered costs order, and then given an untrue statement about there being a similar but larger costs order against the plaintiff in his favour, to justify his non-payment.
- [20] Levasseur argues that I should not strike his defence or that of Daimyo. He did not provide any explanation why he or Daimyo has not brought the motion concerning its representation by the 28 November 2025 deadline, or at any time thereafter. Nor did he have an explanation why neither has filed an affidavit of documents. He suggested that he has financial difficulties caused by the plaintiff's failure to pay his \$20,000 in costs. There are three problems with this specific submission. First, there is no evidence of his financial circumstances before me. Second, there is no order against the plaintiff in his favour, as he represented to me. Third, he represented to Eckler, A.J. at the October 2025 attendance that he intended to take steps to pay the outstanding costs award.
- [21] Levasseur proposed that instead of dismissing his defence, the court direct the parties to attend a case conference under rule 77.14 (by which he presumably meant make an order that the action be case managed) or order a settlement conference. He argued that this solution would be proportionate, considering how "minor" his default is.
- [22] His defaults are not minor. While the amount of costs is not significant, Levasseur has failed to comply with that order for more than a year. Further, if he believes the amount to be inconsequential, he should have paid it long ago. His suggestion of some outstanding costs award to him from the plaintiff was false, which is a significant aggravating factor. A second aggravating factor is his representation to Eckler, A.J. that he intended to make arrangements to pay that outstanding costs award and has not done so.
- [23] Perhaps more important than the costs award is Levasseur and Daimyo's failure to deliver their affidavit of documents. That breach of the court order has allowed the defendants to completely stonewall the plaintiff's ability to move forward. It is compounded by the fact that all parties agreed to that timetable – and then just ignored it.
- [24] This two year old litigation has not passed the documentary or oral discovery stage, despite the efforts of the plaintiff. I am not satisfied that Levasseur or Daimyo would comply with my order for production or payment of costs any more than they have complied with the prior court orders.
- [25] There seems to be little sense in granting a further indulgence to these defendants. The court has done that for many of these defendants, including Levasseur, at least once, and it has had no effect. If a court allows its orders to be ignored with impunity – and repeatedly – it damages litigants' faith in the reliability of the court system. (See *Rana v Unifund Assurance Company*, 2016 ONSC 2502 where the court stated: "Accommodation of the needs of one litigant cannot be at the expense of unfairness to the other or abuse of the court's process. This court must ensure compliance with the orders that are made in the course of litigation because failure to do so is ultimately corrosive of the entire justice system.").

[26] In exercising my discretion, and considering fairness to all parties in the circumstances, and addressing the factors set out by the Court of Appeal, above, I find this is an appropriate case for an order striking the defences of Levasseur and Daimyo. The failures are deliberate, not inadvertent. If they were inadvertent, they would have been cured when brought to their attention and they were not. The failures are both clear and unequivocal. No reasonable explanation has been provided for the defaults, nor has a credible commitment been offered to cure the defaults quickly. Both parties remain in default to the date of this motion. Given its impact on the ability of the plaintiff to prosecute her claim, I find the substance of the default is substantial. The court cannot do justice in this case absent striking these defendants' defences, which I so order.

2. Nantu

[27] For the same reasons, I order that Nantu's defence be struck. An order granting him further time to pay has already been tried and failed. He has had significant costs outstanding to the plaintiff for more than a year. I have no faith that another "last chance" order would be treated any differently.

3. Kasam

[28] Kasam has shown no interest in the litigation. He has filed a letter, which the plaintiff has generously treated as a defence. He has not attended either the October 25 motion or this motion, has not filed responding materials and has not complied with the October court order by delivering an affidavit of documents. I am not satisfied that a lesser remedy will bring home to Kasam the necessity of complying with court orders. His defence is hereby struck.

4. Tinku

[29] I am not prepared to strike the defence of Tinku as he has now met both his obligations under the court order of Eckler, A.J.

D. Costs

[30] The plaintiff seeks partial indemnity costs in the amount of \$2,969.64. The amount is more than reasonable given that the plaintiff was required to assemble a complete record of the defendants' breaches and also served a helpful factum. The defendants argue that they should not have to pay costs because the plaintiff did not upload a costs outline. They did not make any submissions that the quantum was inappropriate. While the plaintiff should have uploaded her outline, the claim for costs comes as no surprise as it was sought in the notice of motion.

E. Conclusion

[31] Order to go striking the statements of defence of the defendants Levasseur, Daimyo, Nantu and Kasam and ordering that they jointly and severally pay costs in the amount of \$2,969.64 to the plaintiff forthwith.

Associate Justice Jolley

Date: 12 February 2026