

COURT OF APPEAL FOR ONTARIO

CITATION: Bryan v. Miguna, 2026 ONCA 226

DATE: 20260326

DOCKET: COA-25-CV-0946

Zarnett, Monahan and Rahman JJ.A.

BETWEEN

Arthur Bryan

Plaintiff (Appellant)

and

Miguna Miguna

Defendant (Respondent)

Matthew Tubie, for the appellant

Miguna Miguna, acting in person

Heard and rendered orally: March 24, 2026

On appeal from the order of Justice Janet E. Mills of the Superior Court of Justice, dated June 16, 2025.

REASONS FOR DECISION

[1] In July 2023, the appellant commenced an action against the respondent seeking damages and other relief. The action was based on the appellant's allegations that: (i) money owing to the appellant to discharge a mortgage he held was paid to the respondent's law firm, who he had retained; (ii) rather than pay the

money to him, the respondent asked to borrow the funds, which the appellant agreed to only if the loan were properly documented and secured; and (iii) the respondent took the funds without documenting a loan or paying the funds back to the appellant. The respondent's defence denied each material aspect of the appellant's allegations.

[2] The appellant brought a motion for summary judgment. The motion judge dismissed that request. Noting that the factual basis of the claim was "convoluted", she held that the conflicting evidence filed on the motion, and credibility issues arising therefrom, made it inappropriate to determine the merits of the appellant's claim by summary judgment.

[3] On a boomerang basis, the motion judge dismissed the action. She held it was clear that the appellant knew of his claim by November 2, 2020, when he sent an email to the respondent demanding, by the next day, payment of his funds or a signed loan commitment and registration of security, a demand which was refused. She found the action was statute barred by the time it was commenced 32 months later.

[4] We see no error in the motion judge's finding that the action was statute barred.

[5] The appellant argues that the motion judge did not find when the limitation period began to run. She clearly did make such a finding. She found that it had

begun to run by at least November 2, 2020, when the appellant sent an email to the respondent demanding the funds or loan documentation and security, which was promptly rejected by the respondent.

[6] The appellant also argues that the doctrine of fraudulent concealment should have been given effect to extending the limitation period. However, the motion judge found that there was no evidence that the respondent “took any steps to conceal the [appellant’s] right of action”. That finding is entitled to deference and we are not satisfied there is any basis to interfere with it.

[7] In light of the proper dismissal of the action as statute barred, we need not address the appellant’s arguments that the motion judge erred in the way she addressed the merits of the appellant’s claim. Whether meritorious or not, it could not proceed if barred by the expiry of the limitation period.

[8] The appeal is therefore dismissed.

[9] We consider the quantum of the respondent’s claim for costs of the appeal to be excessive in the circumstances. The appellant shall pay costs of the appeal to the respondent fixed in the amount of \$8,000, inclusive of disbursements and applicable taxes.

“B. Zarnett J.A.”

“P.J. Monahan J.A.”

“M. Rahman J.A.”