

COURT OF APPEAL FOR ONTARIO

CITATION: Hart v. Balice 2024 ONCA 249

DATE: 20240404

DOCKET: M54623 (C70179)

Paciocco, George and Favreau JJ.A.

BETWEEN

Melissa Hart and Patricia Hart

Plaintiffs (Appellants/Moving Party)

and

Vitoria Balice

Defendant (Respondent/Responding Party)

Melissa Hart, acting in person

Norman Groot, for the respondent

Heard: in writing

REASONS FOR DECISION

[1] Melissa Hart brings a motion under rr. 59.06(2)(a) and 61.16(6.1) seeking to “withdraw” the Court’s November 17, 2022 decision and requesting a rehearing of the appeal on the basis that the Court overlooked her evidence.

[2] By order dated June 13, 2023, Ms. Hart was declared a vexatious litigant under s. 140(1) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43: *Canada Mortgage and Housing Corporation v. Hart*, 2023 ONSC 3544 at para. 41. The

order prohibits Ms. Hart from commencing or continuing any proceedings in any court, except with leave of a judge of the Superior Court of Justice. The order also applies to appeals to this court: *Kallaba v. Bylykbashi* (2006), 265 D.L.R. (4th) 320, at para. 26, citing *Varma v. Rozenberg*, [1998] O.J. No. 4183 (C.A.), at para. 5.

[3] Rule 2.1.03(1) provides that where a person “subject to an order under subsection 14(1) of the *Courts of Justice Act* has instituted or continued a proceeding without the order having been rescinded or leave granted for the proceeding to be instituted or continued, the court shall make an order staying or dismissing the proceeding”.

[4] Accordingly, this motion is dismissed pursuant to r. 2.1.03(1).

[5] In addition, as there is a vexatious litigant order in effect barring Ms. Hart from instituting or continuing any proceedings in any court without leave of a judge of the Superior Court of Justice, court staff are directed not to accept any further filings from Ms. Hart – in this proceeding or in any other civil proceeding – unless she has obtained leave from a judge of the Superior Court of Justice, or the June 13, 2023 order is set aside.

“David M. Paciocco J.A.”

“J. George J.A.”

“L. Favreau J.A.”