

COURT OF APPEAL FOR ONTARIO

CITATION: Mikhail v. Downsview Chrysler Plymouth Limited (1964) Ltd., 2015
ONCA 798
DATE: 20151120
DOCKET: C60446

Cronk, Epstein and Huscroft JJ.A.

BETWEEN

Michael Mikhail, Mary Mikhail, Adly Mikhail

Appellants/Plaintiffs

and

Downsview Chrysler Plymouth Limited (1964) Ltd., Peter Kepic, Carlos
Baptista, Oxford Dodge Chrysler Jeep (1992) Ltd., and James Bennett

Respondents/Defendants

Michael Mikhail and Mary Mikhail and Adly Mikhail, acting in person

Ali Chahbar, for the respondents

Heard and released orally: November 13, 2015

On appeal from the judgment of Justice Elizabeth Stewart of the Superior of
Court of Justice dated April 17, 2015.

ENDORSEMENT

[1] The appellants appeal from the order of the motion judge granting
summary judgment and dismissing their action against the respondents Oxford
Dodge and James Bennett.

[2] The appellants purchased a car from Downsview Chrysler in Toronto for \$45,418.44. Downsview obtained the car from the respondent dealer Oxford Dodge in London, which is managed by the respondent James Bennett. The car's air conditioner malfunctioned and the appellants brought an action seeking over \$400,000 in damages against the respondents and the Downsview defendants.

[3] The claims were settled with all the defendants except Oxford Dodge and James Bennett. The appellants returned the vehicle and received a refund of the full purchase price, in addition to a payment of \$7,500 and a parts and voucher credit of \$1,000.

[4] Oxford Dodge and Bennett brought a motion for summary judgment seeking to have the claims against them dismissed.

[5] The motion judge found there was no factual foundation for a finding of liability against either Oxford Dodge or Bennett on any of the causes of action pleaded. Oxford Dodge had no contractual relationship with the appellants and the appellants led no evidence that would support a finding of negligence or bad faith against it. As to Bennett, the appellants admitted that they had never met or communicated with him prior to commencing their action and that he did not make any representations to them concerning their purchase of the car.

Moreover, any damages the appellants may have sustained were amply compensated by settlements with the other defendants.

[6] We agree with the motion judge's conclusions and her reasoning. Nothing on this record gives rise to a genuine issue requiring trial as against these respondents, for the reasons explained by the motion judge. Accordingly, there is no basis to interfere with the order of the motion judge granting summary judgment.

[7] The appeal is dismissed. The appellants shall pay costs of the appeal in the total amount of \$5,000, inclusive of disbursements and all applicable taxes to the respondents.

"E.A. Cronk J.A."

"Gloria Epstein J.A."

"Grant Huscroft J.A. "