COURT OF APPEAL FOR ONTARIO

CITATION: Meffe v. Toronto (City), 2025 ONCA 716
DATE: 20251020
DOCKET: COA-25-CV-0258

Huscroft, Copeland and Rahman JJ.A.

BETWEEN

Domenic A. Meffe

Plaintiff (Appellant)

and

Corporation of the City of Toronto[1]

Defendant (Respondent)

Charles Lun, for the appellant

Georgia Tanner, for the respondent

Heard: October 15, 2025

On appeal from the order of Justice Eugenia Papageorgiou of the Superior Court of Justice, dated December 13, 2024, with reasons reported at 2024 ONSC 6994.

REASONS FOR DECISION

[1] This is an appeal from the motion judge's order dismissing the appellant's action as an abuse of process pursuant to r. 21 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194. After hearing from the appellant's counsel, we dismissed

[1] This party is misnamed in the order below. Its correct legal name is the City of Toronto.

the appeal without calling on the respondent, with reasons to follow. These are our reasons.

[2] The appellant is a land developer. He applied to the respondent City's planning department for a site plan approval to re-develop a property owned by Dixil Properties Inc., a company in which his solely owned corporation is the majority shareholder. After the planning department denied this application, he submitted two variance applications to the Committee of Adjustment (COA). Both were denied. The appellant then appealed unsuccessfully to the Toronto Local Appeal Body (TLAB), which upheld the COA's decisions. The appellant then engaged in a Pre-Application Consultation process (PAC) in the hopes of revising his application. This process also did not resolve in his favour.

[3] Instead of challenging these administrative decisions by way of judicial review, the appellant sued the respondent. He was not represented in the Superior Court and his statement of claim did not name any specific torts. Instead, it alleged some form of impropriety and misconduct at each stage of the administrative process including: unjust and unfair treatment by decision makers; the COA's improper reliance on a "deliberately misleading" planning report prepared by the respondent; and false testimony by the respondent's planning expert at the TLAB hearing, on which that body relied. The appellant did not seek to have any of the zoning or planning decisions changed. Rather, the appellant's statement of claim

sought “costs, and damages as a result of the denial of process resulting in the denials of approvals sought.”

[4] The motion judge dismissed the appellant’s action pursuant to r. 21 because it was an abuse of process and, in particular, a collateral attack on various administrative decisions. She concluded that the respondent could not be held vicariously liable for the actions and decisions of the COA and TLAB because those bodies are protected by absolute privilege: *Salasel v. Cuthbertson*, 2015 ONCA 115, 124 O.R., (3d) 401, at para. 35. Absolute privilege was also a bar to his claim against the respondent for the way it conducted the litigation before the COA and TLAB. Insofar as the appellant’s claim could be read as alleging that the respondent was negligent, the motion judge held that any negligence claim must fail because the respondent did not owe a duty of care to the appellant. The motion judge concluded that because all claims relating to the appellant’s planning application culminated in his unsuccessful appeal to the TLAB, and because he had not sought judicial review of that decision, his civil claim amounted to a collateral attack on that decision and those leading up to it.

[5] The motion judge also refused the appellant leave to amend his statement of claim. She acknowledged that leave to amend should only be denied in the clearest of cases, where it is plain and obvious that no tenable cause of action is possible on the facts as alleged: *Mitchell v. Lewis*, 2016 ONCA 903, 134 O.R. (3d) 524, at para. 21.

[6] However, the motion judge articulated four reasons why any amendment would be fruitless. First, she observed that where a civil claim amounts to a collateral attack on prior administrative decisions, there is no prospect that amending the claim will cure the defect. Second, the motion judge rejected the appellant's assertion that his pleading could be amended to allege fraud. She reasoned that the appellant had already pleaded all the facts on which he intended to base his claim of fraud, and that such an amendment would simply amount to the appellant recasting his complaints with the TLAB and COA's decisions. Third, the motion judge noted that the appellant had obtained the respondent's consent to serve an amended claim in October 2023 (over a year before the motion hearing) and failed to do so. She reasoned that if any amendments could have been made to cure the defects in the appellant's claim, he would have already made them. Fourth, the motion judge observed that to the extent the appellant wanted to recast his claim as misfeasance in public office, it was also bound to fail. If the appellant wanted to hold city officials and personnel accountable, he could have pursued judicial review of their decisions in Divisional Court.

[7] We are not persuaded that the motion judge committed any reviewable errors in dismissing the action as an abuse of process. The motion judge read the appellant's statement of claim generously. She considered the possible causes of action that could be read into the appellant's self-drafted statement of claim, and

why those causes of action were all bound to fail. We see no basis for this court to intervene.

[8] Similarly, the appellant has not made out any basis for this court to interfere with the motion judge's discretionary decision refusing him leave to amend his statement of claim. In oral submissions, the appellant's counsel focussed on the appellant's status as a self-represented litigant in the court below as a factor that the motion judge should have considered in allowing him to amend his claim to allege misfeasance in public office (an argument not raised in the appellant's factum). We do not see the appellant's status as a self-represented litigant as a basis to interfere with the motion judge's decision, which is of course entitled to deference. Moreover, as already mentioned, the motion judge explained that a misfeasance in public office claim was bound to fail.

Disposition

[9] The appeal is dismissed with costs to the respondent in the amount of $5,000, all-inclusive, as agreed to by the parties.

"Grant Huscroft J.A."
"J. Copeland J.A."
"M. Rahman J.A."