

COURT OF APPEAL FOR ONTARIO

CITATION: Chijindu v. Rathod, 2026 ONCA 239

DATE: 20260331

DOCKET: COA-26-CV-0150

Zarnett, Monahan and Rahman JJ.A.

BETWEEN

Ijeoma Chijindu, Joy Chijindu and Christian Chukwuedozie Chijindu

Plaintiffs/Responding Parties (Appellants/Responding Parties)

and

Harsha Rathod, Ashok Rathod, Amandeep Sidhu* Bluekat Capital Corp, Ebele Nwogwonuwe and Brian Belmont* His Majesty the King in the Right of Ontario

Defendants/Moving Parties* (Respondents/Moving Parties*)

Michael R. Kestenberg and Beverly C. Jusko, for the moving parties, Amandeep Sidhu and Brian Belmont

Ijeoma Chijindu, acting in person

Joy Chijindu, acting in person

Christian Chukwuedozie Chijindu, acting in person

Heard: in writing

Determination pursuant to r. 2.1 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, with respect to the appeal from the order of Justice Suzan Fraser of the Superior Court of Justice, dated January 27, 2026.

REASONS FOR DECISION

[1] The respondents on appeal and moving parties in the motion, Amandeep Sidhu and Brian Belmont (“Sidhu and Belmont”), seek an order under r. 2.1.01 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, dismissing the appellants’ appeal of a January 27, 2026 order (the “Order”), on grounds that the appeal is on its face frivolous, vexatious, and an abuse of the court’s process.

[2] The Order dismissed the appellants’ action against Sidhu and Belmont (the “Action”) on the basis that the Action was frivolous, vexatious, and an abuse of process. The motion judge found that the Action was on its face an attempt to relitigate a February 13, 2024 order of Woodley J., (the “Woodley Order”) as well as the subsequent dismissal of the appeal of the Woodley Order by this court on September 26, 2024 (the “September 26, 2024 Appeal Judgment”): see *Rathod v. Chijindu*, 2024 ONCA 715. (No appeal of the September 26, 2024 Appeal Judgment was taken to the Supreme Court of Canada.)

[3] The September 26, 2024 Appeal Judgment was the culmination of numerous proceedings in this court. In a motion granting security for costs in favour of the respondents, Roberts J.A. described the appeal brought by the appellants (who are the same appellants in this appeal) as “devoid of merit” and “doomed to failure”: *Rathod v. Chijindu*, 2024 ONCA 317, at paras. 7-8. See also the endorsement of Harvison Young, Sossin and Gomery JJ.A. dismissing the appellants’ motion to set aside the order of Roberts J.A. (2024 ONCA 420), as well

as the endorsement of Fairburn A.C.J.O. which summarized the appellants' litigation conduct and ordered payment of outstanding costs (2024 ONCA 625).

[4] Sidhu and Belmont were counsel to two of the successful parties in the litigation that led to the Woodley Order as well as the September 26, 2024 Appeal Judgment. The present Action seeks, amongst other things, the setting aside of the Woodley Order as well as the September 26, 2024 Appeal Judgment, on grounds that they were obtained by fraud.

[5] The appellants' fraud claims were advanced before Woodley J., who not only dismissed them as being without merit, but found that it was actually the appellants who had "colluded with one another with the shared and common intent to defraud their mutual creditors ... for their personal benefit": *Rathod v. Chijindu et al*, 2024 ONSC 939, at para. 114. Woodley J. also referred favourably to the comments of Smith J. who, in dismissing an earlier motion brought by the appellants, described himself as being "gobsmacked by the series of deceptive, sham, and outright fraudulent actions engaged in by one or all of the [appellants]": at para. 105(m).

[6] The principles governing the application of r. 2.1 are well established: see *Scaduto v. The Law Society of Upper Canada*, 2015 ONCA 733, 343 O.A.C. 87, at paras. 8-9, leave to appeal refused, [2015] S.C.C.A. No. 488. Motions under r. 2.1 focus on the pleadings and any submissions of the parties made under the

rule. Although no evidence is submitted on a r. 2.1 motion, the court may review reasons and pleadings from other proceedings to determine whether the proceeding is abusive: *Khan v. Law Society of Ontario*, 2020 ONCA 320, 446 D.L.R. (4th) 575, at para. 9, leave to appeal refused, [2020] S.C.C.A. No. 288.

[7] We agree with the motion judge that the Action is on its face frivolous, vexatious, and an abuse of process since, as she noted, it amounts to a collateral attack on the Woodley Order as well as the September 26, 2024 Appeal Judgment. In the litigation that led to the Woodley Order, the appellants' allegations of "fraud, fraudulent conduct, chicanery, and other such terms most of which are libelous in nature" were described as "beyond the pale" and "an affront to Mr. Belmont's dignity ... and to the dignity of the court": see *Rathod v. Chijindu et al*, 2024 ONSC 939, at para. 105(m). By advancing what are in substance the same allegations against counsel who acted for the successful parties in the earlier litigation, the appellants are in effect seeking to relitigate claims that have already been found to be meritless.

[8] Not only was the motion judge correct in finding that the Action should be dismissed pursuant to r. 2.1.01, but the appeal of that Order is itself frivolous, vexatious, and an abuse of process. The appeal is essentially a facsimile of an earlier appeal which, in the words of Roberts J.A., was devoid of merit, and was ultimately dismissed by a panel of this court in September 2024. As this court recently held, "[a] proceeding that has no chance of success and seeks to re-

litigate matters previously determined is frivolous, vexatious, and an abuse of process”: *2257573 Ontario Inc. v. Furney*, 2026 ONCA 124, at para. 3.

[9] We therefore grant the relief sought and dismiss the appeal pursuant to r. 2.1.01. Since the moving parties in this motion did not seek costs, no costs are ordered.

“B. Zarnett J.A.”

“P.J. Monahan J.A.”

“M. Rahman J.A.”