

Case Name:

Corchis v. Essex Condominium Corp. No. 28

Between

Loretta Corchis, plaintiff, and
Essex Condominium Corporation No. 28, defendant (appellant in
appeal), and

London Caulking and Installations Limited and Constantine
Bach, third parties (respondents in appeal)

[2003] O.J. No. 3364

Docket No. C39536

**Ontario Court of Appeal
Toronto, Ontario
Labrosse, Abella and Cronk JJ.A.**

Heard: September 4, 2003.

Judgment: September 5, 2003.

(4 paras.)

On appeal from the order of Justice S. Rogin of the Superior Court of
Justice dated January 15, 2003.

Counsel:

Mason Greenaway, for the defendant (appellant in appeal).

Arthur Barat, for the third parties (respondents in appeal).

The following judgment was delivered by

¶ 1 **THE COURT** (endorsement):— In our view, the decision of this court
in *Ukrainian Credit Union Ltd. v. Nesbitt, Burns Ltd.* (1997), 36 O.R. (3d)
311 (C.A.) is determinative of the issue raised on this appeal. The third party
claim advanced against the respondents by the appellant is a claim for
contribution and indemnity in connection with any sums which the appellant

may be required to pay to the plaintiff in the main action.

¶ 2 Contrary to the conclusion of the motions judge, such a claim for contribution and indemnity is not a claim for the recovery of damages within the meaning of s. 14(1) of the Condominium Act (Ontario). Accordingly, that section does not apply to the third party proceedings in this case.

¶ 3 The appeal is therefore allowed to the extent that paragraph two (2) of the Order of the motions judge dated January 15, 2003 is set aside.

¶ 4 The appellant is entitled to its costs of this appeal on a partial indemnity basis, fixed in the amount of \$4,000 inclusive of disbursements and Goods and Services Tax.

QL UPDATE: 20030909

cp/e/nc/qw/qlrme