COURT OF APPEAL FOR ONTARIO

CITATION: Carleton Condominium Corporation 116 v. Sennek, 2018 ONCA 118
DATE: 20180208
DOCKET: C64329

LaForme, Rouleau and Paciocco JJ.A.

BETWEEN

Carleton Condominium Corporation 116

Applicant (Respondent)

and

Manorama Sennek a.k.a. Manessh Saini, Mina Websford, Ms. Websford, Mina Sennek and M.S.

Respondent (Appellant)

Manorama Sennek, self-represented

Allison J. Klymyshyn, for the respondent

Heard: February 2, 2018

On appeal from the judgment of Justice Elizabeth C. Sheard of the Superior Court of Justice, dated August 18, 2017, with reasons reported at 2017 ONSC 5016, 283 A.C.W.S. (3d) 550.

REASONS FOR DECISION

[1] Ms. Sennek raises over 20 grounds for appeal from the judgment declaring her to be a vexatious litigant. She has also filed a 216 paragraph affidavit setting out her position and appeal books of 868 pages. In essence, she argues that the

various actions, proceedings, and appeals that she has brought against the respondent condominium corporation, its property manager, directors, and solicitors are warranted in the circumstances. In her view, they do not represent misuse or abuse of the court process.

[2] In support of this submission, she maintains that several matters were wrongly decided and need to be corrected. This is because the decisions made in those matters were either without notice, the product of improper processes, the result of errors of fact and law, or plainly wrong. She explains that the actions proceedings and appeals that are said to be vexatious and frivolous were all properly brought to right a wrong she has suffered.

[3] Ms. Sennek further argues that there is systemic bias against self-represented litigants. Further, she argues that the application judge should have recused herself from hearing the vexatious litigant application. She submits that the application judge was unable to decide the matter fairly because, among other reasons, the application judge had previously ruled against her in a matter that was under appeal. In addition, the application judge had refused to deal with issues Ms. Sennek had sought to raise and did not consider all of the materials that she had filed.

[4] We disagree. The application judge had considerable material before her demonstrating that Ms. Sennek was seeking to relitigate and reargue a number

of earlier court decisions by bringing new proceedings, applications, and appeals. The underlying disputes that gave rise to all of these proceedings appear to be Ms. Sennek's claims, among others, that the respondent condominium corporation ignored her complaint that the parking spaces were 22 inches too narrow and favoured complaints brought by other condominium owners. This led Ms. Sennek to bring a small claims court action and the condominium corporation to place a lien of $763.14 on her condominium unit. The condominium corporation has expended well over $100,000 on these matters.

[5] It is in our view clear that the proceedings, applications, and appeals that Ms. Sennek continues to bring are frivolous, vexatious, and cannot succeed. They are collateral attacks on matters that have been finally determined. They amount to oppression of the various parties Ms. Sennek seeks to pursue.

[6] We see no basis to interfere with the application judge's finding that six of the seven characteristics of a vexatious litigant listed in the case of *Lang Michener Lash Johnston v. Fabian* (1987), 59 O.R. (2d) 353 (Ont. H.C.), have been made out in this case.

[7] Moreover, there is no basis for concluding that the application judge was biased. A reasonable and informed person would not think that she could not decide the matter fairly: *Yukon Francophone School Board, Education Area No. 23 v. Yukon Territory (Attorney General)*, 2015 SCC 25, [2015] 2 S.C.R. 282,

at paras. 20-21. The fact that an earlier disposition by the application judge was appealed did not disqualify her from hearing the vexatious litigant application. The application judge clearly reviewed all of the relevant materials that had been filed, listened to Ms. Sennek's submissions, and did not misapprehend the evidence before her. The basis of her decision was fully explained in her reasons.

[8] In conclusion therefore, the appeal is dismissed. Costs to the respondent fixed at $2,000 inclusive of disbursements and applicable taxes.

"H.S. LaForme J.A."
"Paul Rouleau J.A."
"David M. Paciocco J.A."