

CANADA / JUDGMENT

Community Trust Company v. He

2026 ONCA 261

COURT

Court of Appeal for Ontario

DECIDED

10 April 2026

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Community Trust Company v. He Collection Decisions of the Court of Appeal Date 2026-04-10
Neutral citation 2026 ONCA 261 Docket numbers COA-25-CV-0789 Judges Paciocco, David M.;
Thorburn, Julie; Dawe, Jonathan Subject Civil Decision Content COURT OF APPEAL FOR
ONTARIO CITATION: Community Trust Company v. He, 2026 ONCA 261 DATE: 20260410 DOCKET:
COA-25-CV-0789 Paciocco, Thorburn and Dawe JJ.A. BETWEEN Community Trust Company
Plaintiff (Respondent) and Yi He Defendant (Appellant) On appeal from the order of Justice John
R. McCarthy of the Superior Court of Justice dated May 13, 2025. Yi He, acting in person[1]
Jocelyn Catenacci, for the respondent Heard: April 9, 2026 REASONS FOR DECISION

- [1] The appellant, Yi He appeals the order denying her motion to set aside a default judgment granted on December 11, 2024.
- [2] The appellant secured a mortgage for her property from the respondent. For the first year, interest was charged at the rate of 2.59% per annum calculated semi-annually. The charge was renewed upon maturity at the rate of 9.19% per annum.
- [3] The mortgage went into default in June 2024.
- [4] The respondent brought a Statement of Claim, seeking \$1,073,455.40, plus interest. The appellant was noted in default, and the appellant claims her counsel asked for an extension of time to file the defence. The respondent asked for reasons for the default and how the appellant intended to may payments going forward. No response was received failing which the respondent sought and obtained default judgment.
- [5] The appellant moved to set aside the default judgment. At the time of the motion, the appellant had been in default for almost a year.
- [6] The motion judge found that the appellant had not satisfied the test for setting aside a default judgment: Zeifman Partners Inc. v. Aiello, 2020 ONCA 33, 442 D.L.R. (4th) 299, at para. 21.

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- [7] He held that although she moved “with reasonable dispatch” to bring the motion, she provided no draft statement of defence although she claimed that her counsel failed to file her defence which resulted in the underlying default judgment. Moreover, the defences she raised on the motion did not have an air of reality.
- [8] First, the settlement discussions that took place while the litigation was ongoing, concerned only the payment of costs and the legal remedies the respondent would seek if the mortgage were not brought into good standing. Second, there was no merit to her claim that the interest rate of 9.19% was more than the legal limit and in any event, the rate and penalties were provided for in the contract between the parties. Third, although she claimed she had no notice of default, her actions prove otherwise.
- [9] The motion judge therefore concluded that the appellant had time to bring the mortgage in good standing and failed to do so, and it was commercially unreasonable not to require the appellant to abide by the terms of the mortgage agreement.
- [10] We see no error in the motion judge’s articulation of the test for setting aside a default judgment or his application of the test to set aside default judgment. The appeal is therefore dismissed. The respondent is entitled to its partial indemnity costs in the amount of \$3,000.00. “David M. Paciocco J.A.” “Thorburn J.A.” “J. Dawe J.A.”
- [1] The appellant’s lawyers (who filed the factum and other materials) were removed as counsel per their motion before Sossin J.A.
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