

CANADA / JUDGMENT

Conti v. Duca

2026 ONCA 104

COURT

Court of Appeal for Ontario

DECIDED

13 February 2026

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Conti v. Duca Collection Decisions of the Court of Appeal Date 2026-02-13 Neutral citation 2026 ONCA 104 Docket numbers COA-25-CV-0417 Judges Sossin, Lorne; Copeland, Jill M.; Madsen, Lene Subject Civil Decision Content COURT OF APPEAL FOR ONTARIO CITATION: Conti v. Duca, 2026 ONCA 104 DATE: 20260213 DOCKET: COA-25-CV-0417 Sossin, Copeland and Madsen JJ.A. BETWEEN Massimo Conti Plaintiff (Appellant) and John Duca, Joseph Duca, and Daytona Auto Centre Limited Defendants (Respondents) Gregory Tad Alexander Gryguc, for the appellant John Duca, acting in person Joseph Duca, acting in person[1] Heard: February 5, 2026 On appeal from the judgment of Justice Janet Leiper of the Superior Court of Justice, dated March 5, 2025 and the cost order dated April 3, 2025. REASONS FOR DECISION

- [1] Mr. Conti, the appellant, is an auto mechanic with experience repairing Italian sports cars. In or around 2009, John Duca, one of the respondents, hired Mr. Conti to work for his company, Daytona Auto Centre Ltd. (“Daytona”), in Canada. In December 2011, John Duca funded the purchase of a house (the “Grampian property”) to provide Mr. Conti with a place to live. Title to the Grampian property was taken by John Duca’s son, the other respondent, Joseph Duca. Mr. Conti made monthly payments of \$1,700 to John Duca and paid for the Grampian property’s utilities, while Joseph Duca paid the mortgage, property tax, and insurance. This oral arrangement continued until 2017, when John Duca agreed to waive the \$1,700 payments in lieu of giving Mr. Conti a raise.
- [2] Mr. Conti worked at Daytona until March 16, 2023, when he took a position elsewhere. He resumed making monthly payments of \$1,700 and refused to vacate the Grampian property. A. Mr. Conti’s Claim of a Beneficial Interest in the Grampian Property [3] At trial, Mr. Conti claimed that he had a beneficial interest in the Grampian property, whether through an express trust, resulting trust, a purchase money resulting trust, or under the doctrine of constructive trust. The trial judge heard oral evidence of the parties as well as third parties across a four-day trial and ultimately rejected Mr. Conti’s various trust claims. Her careful decision correctly reviews the law and comprehensively reviews the evidence.
- [4] On appeal, Mr. Conti argues that the trial judge simply “got it wrong”. He alleges no errors of law. Rather, he submits that a fair review of the evidence, particularly that of third parties, shows that the trial judge mischaracterized the evidence and failed to recite portions of the

evidence that supported Mr. Conti's position. He claims that had the trial judge properly weighed the evidence, she would have recognized Mr. Conti's claims to a beneficial interest in the Grampian property. In effect, he argues that the trial judge made palpable and overriding errors in her findings of fact and mixed fact and law.

- [5] These arguments cannot succeed. The findings of the trial judge are well grounded in the record. It is not the function of this court to second-guess a trial judge's fact-finding or reweigh the evidence, as Mr. Conti invites the court to do. There is simply no basis to interfere with the trial judge's conclusion that Mr. Conti has no trust interest in the Grampian property. B. The counterclaim and costs below [6] John Duca, Joseph Duca and Daytona (collectively, the "respondents") brought a counterclaim for higher rent from the date Mr. Conti stopped working for Daytona and damages resulting from the unauthorized installation of a water heater and furnace. The trial judge dismissed this claim, and no appeal is taken from this decision.
- [7] On April 3, 2025, the trial judge awarded costs of the proceeding in favour of Joseph Duca (\$12,203.54) and John Duca (\$4,800). In making this determination, the trial judge noted that she had dismissed Mr. Conti's claim and that the respondents were completely successful at trial. It appears that the trial judge inadvertently overlooked the fact that the respondents had been unsuccessful in their counterclaim, and that therefore success was, in fact, divided.
- [8] While the respondents' counterclaim comprised a minor portion of the trial, it was nevertheless an error to hold that the respondents were completely successful at trial. In these circumstances, we reduce the cost awards by 20% each, with the new amounts payable by Mr. Conti as follows: Joseph Duca (\$9,760) and John Duca (\$3,840). C. Disposition [9] The appeal is dismissed, except in relation to costs, as set out above.
- [10] Costs of the appeal are set at \$6,000, payable by Mr. Conti. These costs should be disbursed from the \$6,700 Mr. Conti paid into court for security for costs, with the balance to be returned to him. "L. Sossin J.A." "J. Copeland J.A." "L. Madsen J.A."
- [1] Mr. Sergio Grillone, who intervened in the proceedings below, observed the hearing.

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