

CANADA / JUDGMENT

Vault Capital Inc. v. Dacosta

2026 ONCA 90

COURT

Court of Appeal for Ontario

DECIDED

6 February 2026

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Vault Capital Inc. v. Dacosta Collection Decisions of the Court of Appeal Date 2026-02-06 Neutral citation 2026 ONCA 90 Docket numbers COA-25-CV-1683, M56652 Judges Monahan, Patrick J. Subject Civil Decision Content COURT OF APPEAL FOR ONTARIO CITATION: Vault Capital Inc. v. Dacosta, 2026 ONCA 90 DATE: 20260206 DOCKET: M56652 (COA-25-CV-1683) Monahan J.A. (Motion Judge) BETWEEN Vault Capital Inc. Plaintiff (Respondent/Responding Party) and Chasidy Simone Dacosta and Christopher Dacosta Defendants (Appellants/Moving Parties) Chasidy Simone Dacosta, acting in person Christopher Dacosta, acting in person Debbie Boswell and Jason Reynar, appearing as amicus curiae, Pro Bono Ontario Michael Suria, for the responding party Heard: February 4, 2026 REASONS FOR DECISION

- [1] The moving parties, Chasidy Simone Dacosta and Christopher Dacosta (“the Dacostas”), seek a stay pending appeal of the judgment dated November 18, 2025 which, amongst other things, required them to vacate their home. At the conclusion of oral submissions, I stayed the judgment until March 30, 2026, with reasons to follow. These are my reasons.

Background

- [2] The underlying proceeding is a mortgage enforcement action (the “Underlying Proceeding”) brought by the responding party, Vault Capital Inc. (“Vault Capital”), after the Dacostas failed to repay a loan of \$843,750 which was secured against their residential home (the “Property”). In her reasons, the motion judge stated that the Dacostas did not file responding materials and did not appear at the hearing of the motion for summary judgment.
- [3] The motion judge granted the motion for summary judgment and ordered the Dacostas to pay Vault Capital the judgment amount of \$926,246.72. The Dacostas had not made any payments on the mortgage since November 2024 and the judgment amount represented the outstanding principal and interest on the loan as of November 18, 2025, the date of the judgment. The motion judge also ordered the Dacostas to deliver vacant possession of the Property forthwith, and granted Vault Capital leave to issue a writ of possession.

- [4] Vault Capital subsequently obtained a writ of possession on December 10, 2025. On January 20, 2026, the Dacostas received a sheriff's notice to vacate the Property no later than February 11, 2026. They then brought the motion for a stay which is now before me.
- [5] In a supplementary affidavit sworn after this motion was filed, the Dacostas indicate that they listed the Property for sale on January 30, 2026 for an asking price of \$1,175,000. The listing indicates a preferred closing date of between 60 and 120 days. Motion for a Stay
- [6] The overarching consideration on a stay motion is whether the interests of justice call for a stay: *Essar Steel Algoma Inc. (Re)*, 2016 ONCA 274, 36 C.B.R. (6th) 56, at paras. 27-28. The test mirrors the interlocutory injunction test articulated in *RJR MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311. The Dacostas must establish:
- (a) There is a serious question to be determined on the appeal;
 - (b) They will suffer irreparable harm if the stay is not granted; and
 - (c) The balance of convenience favours granting the stay. See *Ducharme v. Hudson*, 2021 ONCA 151, 155 O.R. (3d) 281, at paras. 10-12.
- [7] The test for a serious issue to be tried sets a low bar but it is unclear whether the Dacostas surpass it. The appeal appears to have little merit. The issues in the Underlying Proceeding are not complicated and involve a loan secured by a mortgage. The loan is in default, the borrowers have not cured the default, and Vault Capital is seeking to enforce its security.
- [8] Amicus submitted that the Dacostas' strongest ground of appeal is likely their procedural fairness argument relating to the conduct of hearing on the motion for summary judgment. The Dacostas claim that they were denied an opportunity to participate in the hearing of the summary judgment motion, which was held virtually. It is difficult to assess the merits of this claim, which is contrary to the motion judge's express statement that the Dacostas did not attend the hearing.
- [9] The Dacostas acknowledge that they did not adhere to the timetable in the Underlying Proceeding. However, they claim that their former lawyer did not inform them of the timetable when his representation ended and that they attempted to serve responding materials before the motion hearing below and were unsuccessful. This argument was made for the first time at the oral hearing before me, and they did not provide any evidence to support the claim. I also note that the Dacostas have not identified any evidence they would have provided or submissions that they would have made had they been granted permission to do so.

- [10] With respect to irreparable harm, the Dacostas state that they reside in the Property with their three children, ages 14, 12, and 6. The children attend local schools and have established routines, friendships, and support systems. One of their children has been diagnosed with autism and relies heavily on routine, stability, and familiar surroundings. They state that they have no alternative housing plan and there is a real risk the family could become homeless if they are evicted next Wednesday.
- [11] With respect to balance of convenience, the Dacostas state that it would be extremely disruptive and harmful for their family, and particularly their children, to have to relocate within the next week. Conversely, in the absence of any payments on the mortgage the outstanding debt to Vault Capital continues to accrue interest and it is unclear whether the value of the Property when sold will be sufficient to discharge the amount outstanding.
- [12] Stepping back and considering the interests of justice, on the one hand, the Dacostas have not identified any valid defence to Vault Capital's claims and I see little merit to the appeal. On the other hand, I am concerned that enforcing the writ of possession on February 11, 2026 might well result in serious harm to the Dacostas' children, and particularly their child who lives with autism.
- [13] The Dacostas' submissions focused on the need for sufficient time to develop an alternative housing plan, emphasizing the impracticality of finding new housing for a family of five by next Wednesday. Although they preferred a stay until the end of the current school year, they have also listed the property for sale and are prepared to close the sale transaction by the end of March 2026 (i.e., in about 60 days from the date of the listing). While I accept their submission that enforcing the writ of possession on February 11 might well result in serious disruption to their children, that disruption would be significantly attenuated if they are permitted to remain in the home until the end of March.
- [14] On balance, therefore, I order that enforcement of the November 18, 2025 judgment be stayed until March 30, 2026.
- [15] Given that success on the motion was divided, I decline to order costs. "P.J. Monahan J.A."

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Prepared on 26 October 2026 · Esheria