

COURT OF APPEAL FOR ONTARIO

CITATION: Halton Standard Condominium Corporation No. 550 v. Del Ridge
(Appleby) Inc., 2026 ONCA 536

DATE: 20260720

DOCKET: COA-26-CV-0422

Sossin, Monahan and Osborne JJ.A.

BETWEEN

Halton Standard Condominium Corporation No. 550

Plaintiff (Respondent)

and

Del Ridge (Appleby) Inc.*, Del Ridge Homes Inc.* and The Corporation of the
City of Burlington

Defendants (Appellants*)

NCK Engineering Ltd. and Coreslab Structures (Ont) Inc.

Third Parties

and

Keith Loffler McAlpine Architects

Fourth Party

Paul H. Starkman and Xiao Yu Wang, for the appellants

Derek A. Schmuck, for the respondent

Heard and rendered orally: July 16, 2026

On appeal from the order of Justice Paul R. Sweeny of the Superior Court of
Justice, dated March 24, 2026.

REASONS FOR DECISION

[1] The appellants appeal the order of the motions judge dated March 24, 2026 dismissing their motion brought pursuant to r. 51.06 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, on the basis of alleged admissions by the respondent to dismiss as statute-barred certain of their claims advanced in the underlying action pursuant to ss. 4 and 15(2) of the *Limitations Act, 2002*, S.O. 2002, c. 24, Sched. B.

[2] The appellants/defendants were the developers of a condominium project in Burlington, Ontario. The respondent/plaintiff is the condominium corporation. In the underlying action, the condominium corporation advances various claims about alleged deficiencies and problems in the construction of the project. The claims that were the subject of the order appealed from related to the design of columns and precast concrete slabs installed on the balconies of the condominium units.

[3] The underlying action is scheduled to proceed to trial in the Superior Court sitting at Hamilton, commencing on October 5, 2026, pursuant to a previous case management order.

[4] Following a case conference held in this matter on June 19, 2026, this appeal was expedited and the parties were directed to be prepared to address the issue of jurisdiction before the panel at the hearing of the appeal.

[5] We have now heard those submissions.

[6] As noted above, the motion was brought pursuant to r. 51.06, and as specifically noted by the motion judge, it was not a motion for summary judgment. The motion judge dismissed the motion on the basis, as he stated, that “the alleged admissions are insufficient to ground a r. 51.06 order.” He went on to find that the proposed r. 51.06 procedure was inappropriate as it required him to infer admissions based on discovery transcripts and documents and to make findings of fact without the benefit of *viva voce* evidence, or properly admitted documents, which he was not prepared to do.

[7] The order appealed from did not finally dispose of the rights of any parties to the litigation nor did it finally dispose of any issue. In particular, it did not constitute a final disposition of the issue of whether or not the structural balcony claims referred to above were statute-barred. Counsel for the respondent confirmed in argument today his agreement that the motion judge’s decision does not deprive the appellants of the right to argue the limitation period defence at trial.

[8] Rather, the motion judge simply, but clearly, determined that r. 51.06 did not provide the appropriate procedure by which those issues ought to be determined in this case and that the issue should be determined on a full record. Accordingly, he dismissed the motion brought pursuant to r. 51.06. Nothing more.

[9] It follows that the order is interlocutory, with the result that the appeal properly lies to the Divisional Court.

[10] Pursuant to s. 6 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, this court lacks jurisdiction to hear the appeal, with the result that it must be quashed.

[11] Accordingly, the appeal is quashed with costs payable by the appellants to the respondent in the agreed-upon amount of \$11,000, all-inclusive.

“L. Sossin J.A.”

“P.J. Monahan J.A.”

“Osborne J.A.”